

EAST ASIA AND THE PACIFIC

AUSTRALIA

Australia is a constitutional democracy with a federal parliamentary government. Citizens periodically choose their representatives in free and fair multiparty elections. John Howard began his third consecutive term as Prime Minister in November 2001; his Liberal and National Party Coalition Government held 82 of the 150 seats in the lower house of the Federal Parliament. The judiciary is independent.

The Federal Justice Ministry oversees Australian Federal Police (AFP) activities, while the state police forces report to the respective state police ministers. The civilian authorities maintained effective control over the security forces. There were occasional reports that police committed human rights abuses.

The country has a mixed, highly developed market-based economy. Its population was approximately 20 million as of December. Per capita GDP growth was 2.5 percent for the 12-month period ending September 30. Wages and benefits generally kept pace with inflation. The downturn of the global economy had a limited effect on the country's economy. A wide range of government programs offered assistance for disadvantaged citizens.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse; however, there were problems in some areas. There were occasional reports that police and prison officials abused persons in custody. Human rights organizations, refugee advocacy groups, and opposition politicians continued to express concern about the impact of prolonged mandatory detention on the health and psychological well-being of asylum seekers. Societal violence and discrimination against women, and discrimination against Aboriginal people also were problems. Some leaders in the ethnic and immigrant communities and opposition political party members expressed continued concern about instances of vilification of immigrants and minorities. There was ongoing criticism of the 1996 Federal Workplace Relations Act by domestic labor unions and the International Labor Organization (ILO), particularly in regard to the law's restrictions on multi-enterprise agency bargaining and its emphasis on individual employment contracts. There was some trafficking in women, which the Government was taking steps to address.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents. However, the Australian Institute of Criminology (AIC), an agency of the Attorney General's Department, reported that in 2002, 19 persons died in police custody or in the process of arrest, 12 fewer than in 2001. Police fatally shot three persons; all three shootings were found to be justifiable homicides. In the remaining cases, seven deaths were attributed to accidents, seven to self-inflicted injuries, and two to natural causes. Of the six Aboriginal deaths in police custody, three resulted from accidents, one from natural causes, and two from self-inflicted injuries. In November, after a 17-year-old youth fell to his death from a moving police van, the Western Australian (W.A.) Coroner criticized the state's police force for failing to properly secure the van door.

During the year, a W.A. independent commission inquired into police corruption and criminal conduct, including the unresolved death in police custody of an 18-year-old nonindigenous youth in 1988; Amnesty International (AI) had called for an investigation of the death. At year's end, the W.A. Government had not released its report.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits all such practices; however, there were occasional reports that police and prison officials mistreated suspects in custody. Some indigenous groups charged that police harassment of indigenous persons was pervasive and that racial discrimination among police and prison custodians persisted.

During the year, a W.A. police officer was disciplined for using excessive force in the arrest of a homeless man in 2002. In December, a Victoria court awarded a man \$46,000 (A70,000) in compensation for a Victoria police officer's use of excessive force and false imprisonment during a 1996 drug raid.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. Each state and territory is responsible for managing its own prisons, which also house federal prisoners. There are no federal prisons. Although Aboriginals constituted less than 3 percent of the population, they accounted for 20 percent of the prisoner population during the year (see Section 5).

In prisons, men and women were held separately; conditions were the same for both. Detainees held without bail pending trial generally were segregated from the rest of the prison population. Juvenile offenders under age 17 were incarcerated in youth detention or training centers, but could be remanded and sentenced to custody in an adult prison upon being convicted of a serious criminal offense such as homicide. In immigration detention facilities, children were held with adults, most often family members (see Section 2.d.).

According to the AIC's annual report on prison deaths, 50 persons died in prison custody in 2002. The cause of death was not identified in four cases. Of the remainder, 14 deaths were attributed to suicide by hanging, 23 to natural causes, 5 to multiple injuries, 2 to drug overdoses, and 2 to gunshot wounds. Of the eight Aboriginal deaths in prison custody during 2002, six resulted from natural causes, one from an accident, and one from self-inflicted injuries. Three deaths were categorized as "unlawful homicides" (murder or manslaughter); however, the report did not distinguish between prisoner-instigated and guard-instigated manslaughter. Three Queensland prison guards were suspended following an investigation into the death of a prisoner at a Brisbane jail in October. One of the guards allegedly failed to monitor the prison's closed circuit television, which recorded a fight between inmates that led to the prisoner's death.

In 2002, hunger strikes, protests, and arson occurred at immigration detention facilities over allegedly poor sanitary conditions, inadequate access to telephones, limited recreational opportunities, decisions to deny refugee status, and delays in processing final appeals of asylum claims. The Government took some actions to improve detention conditions, including the addition of life-skills classes and vocational training, and increased recreational facilities. In May, the Government closed the heavily criticized Woomera detention center and moved the detainees to the new Baxter detention center near Port Augusta in South Australia (see Sections 2.d. and 4).

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

Each of the country's six state and two territorial jurisdictions has a separate police force, which enforces state and territorial laws. The Federal Police enforces Commonwealth laws. The police forces generally did not have problems with corruption and impunity. State and territorial police forces have internal affairs units that investigate allegations of misconduct and a civilian ombudsman's office that either can review an investigation upon request of the complainant or initiate its own inquiry into a complaint.

Police officers may seek an arrest warrant from a magistrate when a suspect cannot be located or fails to appear; however, they may also arrest a person without a warrant if there are reasonable grounds to believe the person has committed an offense. Police must inform arrested persons immediately of their legal rights and the grounds of their arrest. The arrested person must be brought before a magistrate for a bail hearing at the next sitting of the court. Bail generally is available to persons facing criminal charges unless the person is considered to be a flight risk or is charged with an offense carrying a penalty of 12 months' imprisonment or more. Attorneys and families were granted prompt access to detainees.

In its March 2001 report, the Federal Human Rights and Equal Opportunity Commission (HREOC) asserted that as many as 70 permanent residents convicted of crimes, most with Vietnamese nationality, had completed their prison terms but were still in custody pending deportation. By year's end, all but four of the detained persons had returned to Vietnam, following the 2001 conclusion of a bilateral agreement allowing their return. Of the remaining four, one remained in detention pend-

ing further litigation, one had escaped from detention and remained at large, and two were released by court order.

In April, the Federal Court of Australia ruled that continued detention of asylum seekers when there was no real likelihood of the detainee being removed was unlawful; the Government's appeal of the decision was pending at year's end (see Section 2.d.).

Neither the Constitution nor the law addresses exile; however, the Government did not use it.

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

The court system is divided into federal, state, and territorial courts, which handle both civil and criminal matters. The highest federal court is the High Court, which exercises general appellate jurisdiction and advises on constitutional issues. State and territorial supreme, district, and county courts conduct most high-value civil and serious criminal trials, while the magistrate's and specialist's courts (such as the children's court and administrative tribunals) adjudicate lower level criminal and lesser value civil cases, and conduct preliminary hearings.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. In the state district or county courts and the state or territorial supreme courts, there generally is a judge and jury. The judge conducts the trial, and the jury decides on the facts and on a verdict. Defendants have the right to an attorney, and a government-funded system of legal aid attorneys is available to persons with low incomes. The defendant's attorney can question witnesses, present evidence on the defendant's behalf, and access relevant government-held evidence. Defendants enjoy the presumption of innocence and have the right to appeal the court's decision or the sentence imposed.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press, including academic freedom. The Government did not restrict access to the Internet.

b. Freedom of Peaceful Assembly and Association.—While the right to peaceful assembly is not codified in law, citizens exercised it without government restriction. In March, 14 students were arrested following a violent antiwar demonstration by approximately 2,000 students in Sydney. Police used reasonable force to contain the crowd violence.

There is no explicit right to freedom of association; however, the Government generally respected this right in practice.

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

In October, a state administrative tribunal hearing began on a civil complaint filed by the Islamic Council of Victoria (ICV), under Victoria's Racial and Religious Tolerance Act of 2001, against two persons associated with Catch the Fire, a Christian group. The ICV alleged that speakers at a 2002 seminar on Islam sponsored by Catch the Fire vilified Muslims, and sought an apology, a retraction of the comments in question, and compensation. Lawyers for the defendants argued that the complaint was outside the tribunal's jurisdiction, asserting that the Victoria act infringed on the federal right of freedom of expression. The judge rejected the defendant's request to have the matter referred to a higher court; the case still was pending at year's end.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the Government generally respected them in practice.

The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, subject to certain geographic and time constraints on claims by those who previously sought asylum in a safe country of transit. In practice, the Government provided protection against refoulement and granted refugee status or

asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

Federal immigration officials adjudicate refugee status claims based on UNHCR standards. In the 12-month period ending June 30, the Government granted 12,525 humanitarian class visas, which included an offshore resettlement component of 11,656 visas and an onshore component of 869 visas. The program's offshore component was made up of 4,376 refugees (including 504 grants to women found to be at risk in overseas refugee camps and 311 refugees that were resettled from offshore detention facilities) and 7,280 special humanitarian grantees. Special humanitarian grantees were displaced persons subjected to gross violations of human rights, and whose applications were supported by residents or organizations based in the country. Of the total number of offshore grants, 47 percent came from Africa, 37 percent from the Middle East and Southwest Asia, 10 percent from Europe, and 6 percent from other regions.

Noncitizens arriving at a national border without prior entry authorization automatically are detained. Legal assistance is provided upon request to detainees making an initial asylum claim or application for lawful residence. Individuals may be released pending full adjudication of their asylum claim only if they meet certain criteria such as old age, ill health, or experience of torture or other trauma. However, most did not meet release criteria and were detained for the length of the asylum adjudication process. At year's end, the Federal Government oversaw six immigration detention facilities located within the country. During the year, asylum seekers intercepted at sea also were housed in offshore detention centers, administered by the International Organization for Migration (IOM) with funding from the Government, in Nauru and on Manus Island in Papua New Guinea. In November, the Government established an alternative residential housing detention facility for married women and minors to be near their spouses in the Baxter detention center in Port Augusta.

In 2001, in response to an influx of boats carrying asylum seekers, Parliament changed the law to remove retroactively the right of any noncitizen to apply for a permanent protection visa (i.e., the right to live and work permanently in the country as a refugee) if that person's entry was unlawful and occurred in one of several "excised" territories along the country's northern arc: Christmas Island, Ashmore and Cartier Islands, the Cocos Islands, and any sea or resource installation designated by the Government. Following the November arrival on Melville Island of a boat carrying 14 Kurdish asylum seekers, the Government retrospectively excised almost 4,000 islands across the northern arc from the migration zone, thereby preventing persons arriving on them from making a valid application for protection. Later that month, Parliament nullified the excision order, but the Government would not accept that the Kurdish asylum seekers had made a valid application for protection because the excision order was valid at the time of their arrival. The asylum seekers returned to Indonesia, where the IOM assisted eight of them to apply to the UNHCR for protection; the other six asked to return home.

Noncitizens who arrive by boat and have their asylum claims confirmed are granted a 3-year temporary protection visa (TPV). The TPV provides full access to medical and social services but does not authorize family reunification or allow travel abroad with reentry rights. A permanent protection visa, which gives authority for family reunification and reentry rights, may be granted to an applicant at any stage of the asylum adjudication process. During the year, the Government extended the application of TPVs to all asylum seekers who applied for protection while onshore regardless of whether they entered legally. Denials of asylum claims may be appealed on merit grounds to the Refugee Review Tribunal, and on grounds of legal error to the Federal Court of Australia and, in certain cases, to the High Court. The Minister for Immigration and Multicultural and Indigenous Affairs may exercise his discretion and grant a visa after the asylum seeker has exhausted the review process.

Long delays in processing asylum applications were not a significant problem during the year, due to a decline in the number of asylum seekers arriving by boat since the Government implemented its offshore processing policy in 2001. However, a number of asylum seekers have been detained for years pending review and appeal of their claims. Of these, a small number remained in detention despite having exhausted the appeal process; they could not be returned to their home country because they lacked travel documents or could not obtain necessary transit visas. In April, the Federal Court of Australia ruled that continued detention of asylum seekers when there was no real likelihood of the detainee being removed was unlawful. In November, the High Court began hearing a government appeal of the Federal Court's decision; the appeal remained pending at year's end.

As of December, onshore detention facilities, excluding Christmas Island, held 918 detainees. At that point, the offshore detention facility in Nauru held approximately 300 detainees, most of whom had been denied refugee status and were awaiting repatriation. The Government was in the process of resettling those detainees granted refugee status. In November, the Federal Court began hearing an application to transfer the sole remaining occupant of the Manus Island center to another detention facility on humanitarian grounds.

The country's immigration laws and detention policy continued to be criticized by human rights and refugee advocacy groups, who charged that the sometimes lengthy detentions violated the human rights of asylum seekers. In November and December, detainees at W.A.'s Port Hedland detention center rioted over the length of time they had been in detention. In October, the Federal Human Rights Commissioner, who had monitored detention center conditions over the previous 5 years, stated that the Government's treatment of the detainees was harsh with respect to their length of time in detention; that immigration officials showed a lack of interest in improving the detainees' situation; and that human rights abuses had occurred during riots at the detention centers in 2001. The Government rejected this criticism.

In 2002, both the High Commissioner for Human Rights Special Envoy to Australia and the U.N. Working Group on Arbitrary Detention (WGAD) investigated conditions in the detention centers and expressed concerns about the psychological impact that prolonged detention was having on asylum seekers, in particular children, unaccompanied minors, the elderly, and those with disabilities. The Government rejected this criticism, but implemented improvements to facilities and services (see Section 1.d.).

As of December, 69 children were held in immigration detention centers, excluding Christmas Island and Nauru. Throughout 2002 and during the year, HREOC inquired into the situation of children in immigration detention, but had not published a final report by year's end. In June, the Federal Family Court ruled that its welfare jurisdiction extended to children in detention and that the indefinite detention of children was unlawful. In August, the Court ordered that five Pakistani children be released from their 32-month detention into the care of a charitable welfare group. In October, the High Court heard the Government's appeal of these decisions; the court's decision was pending at year's end. In September, Parliament passed a law preventing the courts from issuing interim orders for the release of detainees who are of "bad character" or pose a security risk, pending the final determination of their refugee claim.

There were no reports of the forced return of persons to countries where they feared persecution, before their asylum claims were considered and rejected. However, during the year, refugee, church and human rights groups expressed concern about the Government's practices in repatriating unsuccessful asylum seekers. In May, Human Rights Watch asserted that information on human rights conditions in Afghanistan disseminated by the Government to asylum seekers from that country was incomplete and misleading. The Government rejected this criticism as unfounded, stating that the information was a factual report of events in Afghanistan for asylum seekers' general information and was not put forth as a comprehensive account of that country's situation.

The Government has agreements with a number of countries under which unsuccessful asylum claimants may be returned involuntarily to their home countries. Following concerns raised by AI early in the year about the possibility of unsuccessful Iranian asylum seekers in onshore detention centers being returned involuntarily to Iran, a November press report carried claims that a male Iranian asylum seeker who was removed from the country in August had been arrested and tortured after arrival in Iran. In December, the High Court rejected an unsuccessful Iranian asylum seeker's request for a court order prohibiting the involuntary return of unsuccessful Iranian asylum seekers. In October, a church human rights group asserted to a parliamentary inquiry committee that many unsuccessful asylum seekers had disappeared or died following their return to their home country; the cases cited included both voluntary and involuntary returnees. The inquiry committee had not issued its report by year's end.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage and mandatory voting. In November 2001, citizens elected a coalition of the Liberal Party and the National Party to a third 3-year term of office. The Australian Labor Party (ALP) won all seven state and territorial elections held in 2001 and 2002 and was reelected to govern-

ment in New South Wales (N.S.W.) during the year; at year's end, the ALP controlled all eight state and territorial legislatures.

There are no legal impediments to public office for women and indigenous people. Both the Government and the opposition have declared their intent to increase the numbers of women elected to public office. As of November, there were 60 female members in the 226-seat Federal Parliament, 2 female Ministers in the 17-member Federal Government Cabinet, and 5 female ministers in the 30-member Federal Government Ministry. There was one woman among the eight Premiers and Chief Ministers of the six States and two Territories, the Chief Minister of the Northern Territory (N.T.).

Aboriginals generally were underrepresented among the political leadership (see Section 5). One Aboriginal was elected to the Federal Senate in 1998. In 2001, an Aboriginal woman was elected to the West Australian state parliament (the first indigenous woman to be elected to a state legislature), and four Aboriginals, including a woman, were elected to the N.T. legislative assembly. In 2002, an Aboriginal woman was elected to the Tasmanian state parliament, and another was elected to the N.S.W. state parliament.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The Government in general cooperated with human rights groups.

The government-funded but independent HREOC investigates complaints of discrimination or breaches of human rights under the federal laws that implement the country's human rights treaty obligations. HREOC resolves complaints in relation to employment, provision of goods and services, access to accommodation, and inciting racial hatred. Each state and territory has its own antidiscrimination board or equal opportunity commission that also resolves complaints of discrimination. In the 12 months ending June 30, the number of discrimination complaints received by HREOC fell to 1,236, a decrease of approximately 3 percent from the 1,271 complaints received in the previous 12-month period. Approximately 56 percent of all cases were not accepted, either because they did not fall within HREOC's mandate or because no discrimination was shown. Another 32 percent were resolved through conciliation, and 11 percent were withdrawn before action could be taken.

In 2002, the Government granted access to its immigration detention centers to domestic and international human rights organizations, including HREOC, the U.N. High Commissioner for Human Rights Special Envoy, and WGAD (see Section 2.d.). However, the Government rejected both the Special Envoy's and WGAD's criticism of detention center conditions, asserting that their reports misrepresented government policy, contained many inaccuracies, and commented on issues well beyond the scope of their mandates. The Government also rejected HREOC's recommendation that the Government set a time limit on detention periods. However, during the year, the Government closed the most heavily criticized detention center, Woomera (see Section 1.d.); reviewed immigration detention standards; and awarded the contract to deliver detention services to a different company.

In 2002, the U.N. Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and All Forms of Discrimination reported that despite efforts by the authorities, much remained to be done to eradicate the legacy of racial discrimination and reduce the social inequalities and extreme poverty that affected the majority of Aboriginals. The Government rejected the Special Rapporteur's three key recommendations, namely, that it provide a fresh impetus for reconciliation, negotiate with Aboriginal representatives for the removal of the discriminatory aspects of the 1998 Native Title Act amendments, and address the needs of the "stolen generation" of Aboriginals (see Section 5).

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

The law prohibits discrimination based on these factors. An independent judiciary and a network of federal, state and territorial equal opportunity offices effectively enforced the law. In December, the N.S.W. Government released a study of violence against homosexuals that found more than half of the survey participants had experienced one or more forms of abuse, harassment, or violence in the past 12 months. The report found that two or more persons who were unknown to the victim perpetrated most incidents of harassment or violence and that homosexuals of Middle Eastern background suffered exclusion, assaults, and stalking from family or community members.

Federal and various state laws prohibit discrimination on the grounds of HIV positive status. In the 12 months ending June 30, nine persons with HIV lodged discrimination complaints with the Federal Disability Discrimination Commissioner, which is part of HREOC. In 2002, a La Trobe University study of HIV positive persons found that 37.7 percent received less favorable access to health services, while 22.1 percent and 11.1 percent received less favorable treatment regarding insurance and accommodation respectively.

Women.—The law prohibits violence against women, including spousal rape and abuse; however, violence against women remained a problem. In 2002, there were 17,850 victims of sexual assault recorded by the police. According to the ABS, sexual assaults increased nearly 6 percent compared with 2001; the victims in 80 percent of the cases were female. In 2002, the sexual assault victimization rate was 91 per 100,000 persons, the highest number since statistics first were recorded in 1993. Domestic violence was particularly prevalent among Aboriginal communities.

All states and territories except W.A. have enacted legislation making it a crime to perform female genital mutilation (FGM) or to remove a child from the jurisdiction for the purpose of having FGM performed; maximum penalties range from 7 to 21 years' imprisonment. The N.S.W. women's minister revealed that 40 women had been treated for the effects of female genital mutilation in the 12 months ending November 30. There were no reports of prosecutions for the offense during the year.

Prostitution is legal or decriminalized in several states and territories, and the governments of Victoria, Queensland and the Australian Capital Territory license brothels operating within their borders. However, many brothels operated illegally. In some locations, state-funded sexual health services employees visited brothels to educate workers about sexual health matters and to prevent worker mistreatment. Local governments or prostitution licensing authorities inspected brothels to assure compliance with planning laws and licensing requirements, including health and safety regulations. However, government officials faced difficulties enforcing health and safety standards in illegal brothels. Trafficking in women, primarily from Asia, for prostitution was a limited problem (see Section 6.f.).

The Sex Discrimination Act prohibits sexual harassment. The independent Federal Sex Discrimination Commissioner, which is part of HREOC, undertakes research, policy, and educative work designed to eliminate discrimination between men and women. In 2002, the Commissioner published a report recommending that the Government establish a government-funded 14-week paid maternity leave. Although the proposal gained the support of the union movement and many women's organizations, the Government did not act on it during the year. According to the HREOC 2002–03 annual report, sex discrimination complaints fell by 5 percent during this reporting period compared with the previous reporting period. Of the 380 new cases filed during the reporting year, women filed 87 percent, and 87 percent were employment related.

The Office of the Status of Women (OSW) monitors women's rights and advises the Federal Government on issues affecting women. In 2001, the Federal Government committed funding of \$10.8 million (A16.5 million) for a National Initiative to Combat Sexual Assault, which the OSW developed. In 2002, the OSW commissioned separate projects by the ABS and the AIC to identify gaps in data on sexual assaults and to evaluate the incidence of underreporting of sexual assaults. There are highly organized and effective private and public women's rights organizations at the federal, state, and local levels.

Women have equal status under the law, and the law provides for pay equity. In June, the ABS estimated that women's full-time total average weekly earnings were 81 percent of men's. Union leaders and members of opposition political parties attributed the differences between men's and women's earnings to changes in workplace laws, such as the 1996 Workplace Relations Act (WRA). The WRA encourages the use of individual contracts rather than collective agreements, which makes it more difficult for women to negotiate salaries equal to those of their male counterparts.

Children.—The Government demonstrated its strong commitment to children's rights and welfare through its publicly funded systems of education and medical care. While the structure of education varied among states and territories, all children between 6 and 15 years of age are entitled to 9 to 10 years of compulsory, free, and universal education. The ABS found in a 2002 survey that the full-time school participation rate for 15-year-olds was 92.5 percent. The Government provides universal health insurance coverage to all citizens and lawful residents from birth on a copayment basis. The Government also provides a minimum benefit of 16.8 percent of the cost of a first child's childcare to all parents (with a smaller benefit for

additional children), which increases to as much as 100 percent for the lowest income families.

State and territorial child protection agencies investigate and institute prosecutions of persons for child neglect or abuse. The Federal Government's role in child abuse prevention is limited to funding research and education campaigns, developing a national plan of action against the commercial exploitation of children, and funding community-based parenting programs. According to the Federal Department of Family and Community Services, the number of substantiated cases of child abuse and neglect grew approximately 43 percent from 1992 to 2002. During the year, the Queensland Crime and Misconduct Commission (CMC) inquired into allegations of mismanagement within the state childrens' services department and neglect of foster children placed by the department. At year's end, the CMC had not yet released its report. In November, the N.T. government outlawed the legal defense of Aboriginal traditional marriage when an Aboriginal man has sexual intercourse with a girl under age 16.

The Government has enacted tough criminal laws aimed at restricting the trade in, and possession of, child pornography; the law allows suspected pedophiles to be tried in the country regardless of where the crime was committed. The 1994 Child Sex Tourism Act prohibits child sex tourism and related offenses for its residents and its citizens overseas. Since 1994, 19 citizens have been charged with offenses related to child sex tourism overseas, resulting in 8 convictions and 1 acquittal; 1 person died prior to the completion of the investigation, 1 charge was withdrawn, and 8 cases were ongoing at year's end. Within the country, 16 persons have been charged under the act; as of December 1, there were 12 convictions, 3 dismissals, and 1 ongoing case. Child protection NGOs played an ongoing role in raising community awareness of child trafficking. There were no reports of children being trafficked into the country during the year (see section 6.f.).

The practice of parents unlawfully sterilizing children with disabilities was a continuing problem. The High Court has determined that physicians who sterilized a child without authorization from the Federal Family Court would be subject to criminal and civil action. In 2002, a report into the sterilization of girls and young women with disabilities, commissioned by the federal Sex Discrimination Commissioner, found that the official data was unreliable and that anecdotal evidence suggested that girls continued to be sterilized in numbers that far exceeded the number of lawful authorizations.

In 2002, HREOC undertook a national inquiry into children in immigration detention, but its final report had not been published by year's end (see Section 2.d.). In June, the Federal Family Court ruled that the indefinite detention of children was unlawful; the Government appealed the decision (see Section 2.d.).

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

The law makes it illegal to discriminate against a person on the grounds of disability in employment, education, provision of goods, services and facilities, access to premises, and other areas. The law also provides for mediation of discrimination complaints by HREOC, authorizes fines against violators, and awards damages to victims of discrimination.

The 2002–03 HREOC report stated that 493 disability complaints were filed during the 2002–03 reporting year, including 169 complaints of discrimination based on physical disability, 88 complaints of discrimination based on psychiatric disability, and 25 complaints based on learning disabilities. Of these, 53 percent were employment related, and 24 percent concerned the provision of goods and services. The complaints covered a 12-month period.

Indigenous People.—The law prohibits discrimination on grounds of race, color, descent, or national or ethnic origin.

Aboriginals and Torres Strait Islanders can participate in government decision-making that affects them through the Aboriginal and Torres Straits Islander Commission (ATSIC). In 2002, indigenous people elected 380 representatives to 35 regional councils and the Torres Strait Regional Authority in triennial elections. These representatives in turn chose the 18 commissioners who made up the ATSIC Board. The 2002 election had the highest voter participation since elections were first held in 1990.

In 2002, in response to continued claims of corrupt dealings by ATSIC board members, the Government initiated a review of ATSIC's functions and operations.

In November, the review body issued its final report, which recommended replacing the 18-member ATSiC board with a 10-member ATSiC national executive body, with 8 members elected from among the chairs of 35 regional councils and 2 government-appointed members. The review also recommended that the Government restore ATSiC's discretionary funding powers, which were removed in April when the Government created a separate agency called the Aboriginal and Torres Strait Islander Services (ATSIS). The Government also reviewed allegations against ATSiC's Chairman and Deputy Chairman. As a result, faced with several allegations of improper behavior, ATSiC's Deputy Chairman, Ray Robinson, resigned in July, and the Minister for Indigenous Affairs suspended Chairman Geoff Clark in August. The Commission elected ATSiC Regional Councilor Lionel Quartermaine as Acting Chairman; at year's end, the Minister of Indigenous Affairs was considering Clark's request for reinstatement.

The Government's approach toward Aboriginals emphasized a "practical reconciliation" aimed at raising the health, education, and living standards of indigenous people. DIMIA, in conjunction with ATSiC and ATSIS, has the main responsibility for government efforts to improve the quality of life of indigenous people. A wide variety of government initiatives and programs sought to improve all aspects of Aboriginal and Torres Straits Islander life. In 2002–03, the Government spent approximately \$1.55 billion (A2.36 billion) on indigenous-specific programs in areas such as health, housing, education, and employment. This represented a 1 percent increase in Government funding for indigenous programs compared with the previous 12 months. However, indigenous citizens continued to experience significantly higher rates of imprisonment, inferior access to medical and educational institutions, greatly reduced life expectancy rates, elevated levels of unemployment, and general discrimination, which contributed to a feeling of powerlessness. Poverty and below-average educational achievement levels contributed significantly to Aboriginal underrepresentation in national, territorial, and state political leadership (see Section 3).

According to a joint ABS and Australian Institute of Health and Welfare study released during the year, the life expectancy of an indigenous person remained 20 years less than that of a nonindigenous person, and the indigenous infant mortality rate was 2.5 times the rates found in nonindigenous populations. In 2001, notification rates of tuberculosis and hepatitis A and B rates among indigenous people were, respectively, 3.7 times greater, 4.3 times greater, and 3.6 times greater than rates among the nonindigenous. According to the Department of Family and Community Services, indigenous youth were 2.5 times more likely than nonindigenous youth to leave school before graduation. The ATSiC 2002–03 annual report highlighted findings in a 2001 report that 37 percent of indigenous students did not achieve a grade 5 mathematical competency benchmark and 33 percent of indigenous students in grade 5 were below the national reading benchmark, compared with 10 percent of the nonindigenous population against both markers. The ATSiC report also noted that poor access to labor markets in remote areas contributed to the high indigenous unemployment rate, which was 20 percent in 2001, almost 3 times greater than the nonindigenous unemployment rate. Unemployment rose to over 34 percent when indigenous persons given employment as part of government-assisted employment programs were included.

Although Aboriginal adults represented only 2.2 percent of the adult population, according to the ABS they accounted for approximately 20 percent of the total prison population and were imprisoned at 15 times the rate of nonindigenous persons as of June 2002. The indigenous incarceration rate was 1,829 per 100,000 adult population, in contrast to a nonindigenous rate of 121 per 100,000. Over 45 percent of Aboriginal men between the ages of 20 and 30 years had been arrested at some time in their lives. In 2001, Aboriginal juveniles accounted for 55 percent of those between the ages of 10 to 17 in juvenile correctional institutions. Human rights observers noted that socioeconomic conditions gave rise to the common precursors of indigenous crime, including unemployment, homelessness, and boredom.

In September, HREOC drew to the attention of the U.N. Committee on the Rights of the Child the heavily disproportionate impact the W.A. mandatory sentencing law for home burglary offenses had on Aboriginal juveniles, with indigenous youth accounting for 81 percent of all juveniles convicted under the law.

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

A 2002 W.A. inquiry into family violence and sexual abuse found that indigenous women in W.A. accounted for as many as 50 percent of all domestic violence inci-

dents although they constituted less than 3 percent of the population. Indigenous women were 45 times more likely to be victims of violence than nonindigenous women and 10 times more likely to die as a result. In May, prominent indigenous leader and former ATSIC Chairman Mick Dodson highlighted the prevalence of domestic violence in indigenous communities and called upon indigenous men to be more accountable for the problem. In June, ATSIC increased its funding of indigenous family violence projects by \$657,000 (A1 million) to \$2.9 million (A4.4 million). In July, the federal and state governments launched a multifaceted action plan to tackle indigenous violence and announced seven priority areas for government funding, including reducing alcohol and substance abuse, increasing child safety and well being, creating safe places in the community, and promoting shared leadership. In August, the Federal Government supplemented ATSIC's regional council family violence action plan funding by an additional \$2 million (A3 million) over 2 years. A 2001 Northern Queensland study into indigenous violence found that 70–90 percent of all assaults were committed under the influence of alcohol or drugs. In August, the Government committed \$6.9 million (A10.5 million) over 4 years to help divert Aboriginals and Torres Strait Islanders from alcohol and drug abuse and \$4 million (A6.1 million) for NGO indigenous treatment programs.

The Government continued to oppose an official apology to the “Stolen Generation” of Aboriginal children, who were removed from their parents by the Government from 1910 until the 1970s, on the grounds that the present generation had no responsibility to apologize for the wrongs of a previous generation.

Following the 2002 rejection by the High Court of a claim for compensation by two members of the “Stolen Generation” because of insufficient evidence, many Aboriginal leaders and NGOs supported calls for the Government to establish a Reparations Tribunal to avoid costly legal battles in the future. The Government rejected this proposal. However, in 2002, the Government allocated an additional \$6.5 million (A9.9 million) over 4 years to the national network of Link Up offices it established in 1998 in response to HREOC's landmark 1997 report on the “Stolen Generation.” The Link Up offices provide family tracing, reunion, and other support to indigenous families separated as a result of past government practices. In the 12 months ending June 30, the Government spent \$2.6 million (A4 million) on family tracing and reunion services.

The National Native Title Tribunal resolves native title applications through mediation. The Tribunal also acts as an arbitrator in cases where the parties cannot reach agreement about proposed mining or other development of land. In 2002, ATSIC noted that the 1993 Native Title Act, as amended in 1998, provided gains for Aboriginal people but still did not address adequately the needs of native title claimants. Aboriginal leaders were pleased by the removal of a time limit for lodging native title claims but expressed deep concern about the weakening of Aboriginal rights to negotiate with non-Aboriginal leaseholders over the development of rural property. Aboriginal groups continued to express concern that the amended act limited the future ability of Aboriginal people to protect their property rights. In December, after almost a decade of litigation, the Federal Court approved a consent agreement between the Miriuwung-Gajerrong people and the Federal, W.A. and N.T. Governments on a native title claim of almost 8,000 square kilometers of land in East Kimberley region covering the far north of W.A. and the N.T. In a separate case in December, the Federal Court also recognized the Wanjina Wunggurr Wilinggin claimants' native title rights over remaining crown land within 60,000 square kilometers of W.A.'s Kimberley region.

In 2002, the High Court ruled that native title rights did not extend to mineral or petroleum resources, and that in cases where leasehold rights and native title rights were in conflict, leaseholder rights prevailed. Also in 2002, the High Court rejected the Yorta Yorta people's land claim, ending the country's longest-running native title case. The court required that the Yorta Yorta people, in order to claim ownership, demonstrate that they had, without interruption and throughout the period of white settlement, practiced a system of native law and tradition on the land in question. Aboriginal leaders voiced concern that this decision would make future claims untenable by establishing too great a burden of proof.

The \$848 million (A1,290 million) indigenous land fund is a special account that provides an ongoing source of funds for indigenous people to purchase land for their use. It is separate from the Native Title Tribunal and is not for payment of compensation to indigenous people for loss of land or to titleholders for return of land to indigenous people.

The NGO Aboriginal Tent Embassy in Canberra was set up in a small structure on public land opposite the Old Parliament building over 30 years ago and publicized Aboriginal grievances. The tent embassy, which also encompassed an itinerants' camp, still existed at year's end despite fire damage in June and contin-

ued efforts to relocate it by the Government and some local indigenous groups, who asserted that it was not representative of the entire indigenous community. Other Aboriginal NGOs included groups working on native title issues, reconciliation, deaths in custody, and Aboriginal rights in general. International NGOs, such as AI, also monitored and reported on indigenous issues and rights.

National/Racial/Ethnic Minorities.—Although Asians comprised less than 5 percent of the population, they made up approximately 40 percent of new immigrants. Public opinion surveys long have indicated concern with the number of new immigrants. However, a marked increase in unauthorized boat arrivals from the Middle East during the period 1998–2001 heightened public concern that “queue jumpers” and alien smugglers were abusing the country’s refugee program. Leaders in the ethnic and immigrant communities continued to express concern that increased numbers of illegal arrivals and violence at migrant detention centers had contributed to incidents of vilification of immigrants and minorities. Following the deaths of 88 Australian citizens in a 2002 terrorist bombing in Bali, the press reported an increase in racially motivated incidents.

According to the 2002–03 HREOC report, the number of racial discrimination complaints fell by 2 percent during the reporting year. Of 182 reported cases, 42 percent involved employment; 24 percent involved provision of goods, services, and facilities; and 13 percent alleged “racial hatred.” Non-English speakers filed 58 percent of the complaints, and Aboriginals and Torres Strait Islanders, 28 percent.

Section 6. Worker Rights

a. Right of Association.—The law provides workers, including public servants, the right of association domestically and internationally, and workers exercised this right in practice. A 2002 ABS survey indicated that union membership had declined to 23.1 percent of the workforce from 24.5 percent the previous year.

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

The Workplace Relations Act contains curbs on union power, restrictions on strikes (see Section 6.b.), and an unfair-dismissal system that limits redress and compensation claims by dismissed employees. The umbrella trade union organization, the Australian Council of Trade Unions (ACTU), has objected to the law, alleging that it violates the right to assembly provided for in several ILO conventions that the Government has signed, including ILO Convention 87 on the Freedom of Association and Protection of the Right to Organize. Both the ILO’s Committee on Freedom of Association and Committee of Experts on the Application of Conventions and Recommendations have called on the Government to amend the WRA and the Trade Practices Act (TPA) to bring them into compliance with ILO Convention 87. The Government rejected the ILO’s comments. The primary curb on union power is the abolition of closed shops and union demarcations. This provision could create many small and competing unions at the enterprise level, but thus far, there have been few changes in existing union structures.

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

b. The Right to Organize and Bargain Collectively.—Federal, state, and territorial laws provide workers with the right to organize and bargain collectively and protection from anti-union discrimination. Workers exercised these rights in practice.

Since passage of the WRA in 1996, negotiation of contracts covering wages and working conditions shifted from the centralized awards system of the past to enterprise-level agreements certified by the Australian Industrial Relations Commission (AIRC). In the 12-month period ending June 30, the AIRC certified 6,514 enterprise agreements, a decrease of 3 percent from the number certified in the previous 12 months. The WRA provides for the negotiation of Australian Workplace Agreements (AWAs) between employers and individual workers, which are subject to fewer government regulations than awards or enterprise bargaining agreements; however, AWAs must improve upon the basic working conditions contained in a relevant same-sector award. Rates of AWA approvals continued to grow. Of the 412,782 AWAs made in the past 6 years, more than 30 percent were made in retail trade, property and business services, and manufacturing industries.

Federal law first recognized an implicit right to strike in 1994. The 1996 WRA significantly restricts this right; it subjects strikers to heavy fines for taking industrial action during the life of an agreement and contains tougher secondary-boycott provisions. The WRA confines strikes to the period when unions are negotiating a new enterprise agreement, and strikes must concern matters under negotiation. This is known as “protected action.” Protected action provides employers, employees, and unions with legal immunity from claims of losses incurred by industrial action. In 1999, a union successfully challenged the WRA’s restriction on strike action in federal court. The court refused to grant an injunction against the union for taking industrial action outside of a bargaining period because the action was in support of maintaining existing wages and conditions. The decision has not been appealed to date. Parliament has rejected on many occasions the Government’s proposed changes to the TPA, which would provide companies with resort to legal action if they were subject to secondary boycotts.

During the year, there were no national strikes of significance, but there were short localized strikes by health-care professionals, teachers, entertainers, and construction workers. The Bureau of Statistics reported 703 industrial disputes for the twelve months ending June 30, an increase of nearly 3 percent from the previous year; during the same period, workdays lost due to strikes fell by 26 percent to 244,700.

During the year, the ACTU campaigned to increase the minimum wage, set reasonable hours, protect employee entitlements in the face of numerous company collapses, and extend family-friendly policies in the workplace. In May, the ACTU successfully argued for an increase in the federal minimum wage (see Section 6.e.). In 2002, the AIRC refused the ACTU’s request to set a standard for “reasonable working hours” but allowed workers to refuse without penalty to work unreasonable overtime. In April, the N.S.W. industrial relations commission extended these provisions to N.S.W. awards. By year’s end, 12,000 former Ansett Airlines employees had received partial payment for entitlements lost after the company’s collapse in 2001; the union movement’s campaign on their behalf resulted in the recovery of 71 cents for every lost dollar of entitlement. Throughout the year, unions successfully campaigned for paid maternity leave provisions in many collective agreements.

The ILO’s Committee on Freedom of Association in 2000 and its Committee of Experts on the Application of Conventions and Recommendations during the year recommended that the Government remove certain provisions in the WRA and the TPA that restrict a union’s ability to take strike action. On both occasions, the Government rejected the ILO’s comments, stating that they reflected an inadequate understanding of Australian law.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The law does not explicitly prohibit forced or bonded labor, including by children; however, there were no reports that such practices occurred. Trafficking in women was a limited problem (see Sectionf.).

d. Status of Child Labor Practices and Minimum Age for Employment.—There is no federally mandated minimum age of employment, but state-imposed compulsory educational requirements, enforced by state educational authorities, effectively prevented most children from joining the work force full time until they were 15 or 16 years of age. Federal and state governments monitored and enforced a network of laws, which varied from state to state, governing the minimum school-leaving age (see Section 5), the minimum age to claim unemployment benefits, and the minimum age to engage in specified occupations. The ACTU also monitored adherence to these laws.

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

In October, Victoria enacted new legislation to strengthen protection of working children by specifying minimum conditions of work; the previously existing restriction of children to light work only also remained in force.

e. Acceptable Conditions of Work.—Although a formal minimum wage exists, it has not been directly relevant in wage agreements since the 1960s, since most workers receive higher wages through enterprise agreements or individual contracts. In May, the AIRC increased the federal minimum award wage by \$11 (A17) to \$295 (A448.40) per week. Differing minimum wages for individual trades and professions covered approximately 80 percent of all workers; all rates provided a decent standard of living for a worker and family.

Most workers were employees of incorporated organizations. A complex body of applicable government regulations, as well as decisions of applicable federal or state industrial relations commissions, prescribe a 40-hour or shorter workweek, paid vacations, sick leave, and other benefits. The minimum standards for wages, working

hours, and conditions are set by a series of “awards” (basic contracts for individual industries).

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

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

Labor law protects citizens, permanent residents, and migrant workers alike. Migrant worker visas required that employers respect these protections and provide bonds to cover health insurance, worker compensation insurance, unemployment insurance, and other benefits. Past reports of abuse of foreign workers generally involved permanent residents who performed work in their homes in the clothing and construction industries. There were no such reports during the year.

There were no reports of worker rights abuses in any of the country’s five dependent territories of Macquarie and Heard Islands, Christmas Island, Cocos (Keeling) Island, and Norfolk Island.

f. Trafficking in Persons.—The law prohibits trafficking in persons, but the country continued to be a destination for a small, indeterminate number of trafficked women in the sex industry.

Legislation enacted in 1999 targets criminal practices associated with trafficking, and other laws address smuggling of migrants. Trafficking in a limited number of persons from Asia, particularly women, was a problem that the Government took steps to address as part of a broader effort against “people smuggling,” defined as “illegally bringing noncitizens into the country.” Under the Federal Migration Act, smuggling of persons in all forms is prohibited and carries a maximum penalty of 20 years’ imprisonment. Under the Federal Crimes Act, conduct that amounts to slavery, or exercising a power of ownership over another person, carries a maximum penalty of 25 years’ imprisonment. No prosecutions have occurred under this legislation, although trafficking investigations were ongoing; in June and July, police investigations led to the arrest of seven persons in Melbourne and Sydney. The 2001 Border Protection Act authorized the boarding and searching of vessels in international waters, if suspected of smuggling or trafficking in persons. In 2002, the criminal code was modified to provide for sentences of up to 20 years’ imprisonment upon conviction for “people smugglers” who knew that their victims were destined for involuntary sexual servitude and bonded labor. The Federal Parliament inquired into the national criminal intelligence agency’s efforts to gauge the extent of the sex trafficking problem and the adequacy of federal sex trafficking laws; the parliamentary committee had not issued its report by year’s end.

DIMIA and the Australian Customs Service have lead roles in dealing with illegal migration, including trafficking in persons. The AFP enforces the trafficking provisions of the Federal Crimes Act, while state and territorial police forces enforce their respective criminal codes. DIMIA and the AFP reported that women, mostly from Asia, were brought into the country for the purpose of prostitution, sometimes entering with fraudulently obtained tourist or student visas. There have been some instances of organized crime groups forcing foreign women to work as sex workers. Some reports indicated that women working in the sex industry became mired in debt or were physically forced to keep working, and that women in irregular immigration status were pressured to accept hazardous working conditions. Some women were subjected to indentured sexual servitude to pay debts to their traffickers. Some women were lured by offers of employment as waitresses, maids, or dancers and were not aware that they would be employed as prostitutes after entering the country. There were also reports of young women, primarily from Asia, sold into the sex industry by impoverished families. However, available evidence indicated that such cases were not widespread.

In 2002, the Government established the position of Ambassador for People Smuggling Issues, with responsibility for promoting a coherent and effective international approach to combating people smuggling (particularly in the Asia-Pacific region), assisting in the negotiation of international agreements for the return and resettle-

ment of persons brought illegally into the country, and working for the prosecution of smugglers and traffickers in persons.

Early in the year, the Government took a series of additional steps to combat trafficking in persons for sexual exploitation, including establishing a national police Transnational Sexual Offenses Crime Team to collate and analyze intelligence on organized trafficking syndicates; signing a memorandum of understanding with the Indonesian police that permits joint operations to combat transnational crime, including trafficking in persons; and sponsoring a seminar with NGOs to discuss ways to improve assistance to victims of trafficking in persons. The Government also increased enforcement against brothels using illegal aliens. In April, the country co-chaired with Indonesia the second annual 38-country Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime. During the year, the Government also began funding the \$5.6 million (A\$3.5 million) Asia Regional Cooperation to Prevent People Trafficking project. Underway in four countries—Thailand, Laos, Burma and Cambodia—the project focused on strengthening the criminal justice process to combat trafficking in persons.

In October, the Government announced a coordinated series of measures, developed in consultation with NGOs and designed to be implemented over a 4-year period, to strengthen further its efforts to combat trafficking in persons. These included additional antitrafficking legislation, enhanced government cooperation with other countries and state and local law enforcement authorities, new visa procedures to facilitate cooperation of trafficking victims with law enforcement personnel, and additional social services for victims. As part of the October package, the Government replaced its analytical Transnational Sexual Offenses Crime Team with the Transnational Sexual Exploitation and Trafficking Team, an expanded 23-member mobile strike force responsible for investigating trafficking syndicates operating in the country.

There were no NGOs devoted solely to trafficking victims. Nonetheless, assistance was available through NGOs that ran shelters for women and youth; sex worker organizations; the NGO Project Respect, which assisted women to escape prostitution and combated sex trafficking of women; and Childwise, which campaigned against the commercial sexual exploitation of children in the country and through sex tourism overseas. Some NGOs received government funding; others were funded privately. Local NGOs and the press were instrumental in bringing to the authorities' attention the presence of illegal migrant women and girls in brothels and massage parlors, and raising public awareness of the problem.

BRUNEI

Brunei Darussalam is a small, wealthy, Islamic country ruled by the same family for over 600 years. A British Protectorate from 1888, it became fully independent and sovereign in 1984. After a failed rebellion in 1962, the then Sultan invoked an article of the Constitution that allowed him to assume emergency powers for 2 years. These powers were renewed regularly, most recently in June 2002 under the present ruler, Sultan Haji Hassanal Bolkiah. Although not all the articles of the Constitution were suspended, the state of emergency places few limits on the Sultan's power. The Sultan also serves as Prime Minister, Minister of Defense, Minister of Finance, Chancellor of the national university, Superintendent General of the Royal Brunei Police Force, and Head of the Islamic faith. The Constitution does not specifically provide for an independent judiciary and the Sultan appoints all higher court judges and has the authority to remove them, although he has never done so. The courts appeared to act independently.

The police force and an Internal Security Department report to the Sultan, who maintains control over both.

The country's large oil and natural gas reserves, coupled with its population of 341,000, gave it a high per capita gross domestic product of approximately \$12,500. The Government used its substantial oil and gas revenues and investment income to provide a wide range of services and benefits to citizens, including free schooling and medical care, subsidized housing, and jobs. During the year, the non-oil and gas component of the economy suffered its fifth year of stagnation.

The Government generally respected its citizens' human rights in several areas; however, its record was poor in other areas, particularly with regard to civil liberties. Citizens did not have the right to change the Government, and they generally avoided political activity of any kind because of the official atmosphere of disapproval concerning such activities. Citizens did not exercise freedom of speech, freedom of press, freedom of assembly, or freedom of association. Labor rights were

circumscribed and foreign workers sometimes were subjected to exploitation, although the Government took steps to protect foreign workers. Other human rights problems continued, including restrictions on religious freedom. Occasional spousal violence against women remained a problem, although the Government addressed the issue at many levels. Discrimination against women was a problem. In October 2002, a reform nationality law was passed that allows women to pass on their nationality to their children.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits mistreatment of prisoners, and there were no reports of such mistreatment. Caning is mandatory for 42 drug-related and other criminal offenses, and was included as part of the sentence in 80 percent of criminal convictions. Canings are carried out in the presence of a doctor who has the authority to interrupt for medical reasons. Prison conditions generally met international standards. There was no overcrowding. Juveniles typically served their sentences in adult detention centers but several young offenders were housed at a government welfare center. During the year, construction began on a correctional facility for young offenders. Male and female offenders were housed separately. Prisoners received regular medical checkups. Remand cells at police stations were Spartan.

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

d. Arbitrary Arrest, Detention, or Exile.—The law provides for a prompt judicial determination regarding the validity of an arrest. However, those provisions, like the Constitution itself, may be superseded, either partially or wholly, through invocation of the emergency powers. The Internal Security Act (ISA) permits the Government to detain suspects without trial for renewable 2-year periods. Information on a detainee usually is published only after his release.

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

There were no known arrests for publishing or distributing anti-government literature during the year. However, in the past, the Government has arrested and interned citizens for such activities.

During the year, six individuals were detained for suspected association with a banned Muslim organization, Al-Arqam. In late 2000 and early 2001, the Government used the ISA to detain at least seven Christian citizens, several of whom had converted from Islam, for alleged subversive activities. All were released in 2001. Government officials maintained that the detentions were for security rather than religious reasons (see Section 2.c.). Two of the Muslim converts to Christianity were believed to have reverted to their original faith after undergoing “rehabilitation.” Rehabilitation may entail pressure, ceremonial renunciations, or schooling.

There were no reports of political prisoners, but information on possible detainees was very hard to obtain.

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

e. Denial of Fair Public Trial.—The Constitution does not provide specifically for an independent judiciary, but the courts appeared to act independently during the year, and there were no known instances of government interference with the judiciary. All higher court judges are appointed by and serve at the pleasure of the Sultan.

The judicial system consists of five levels of courts, with final recourse in civil cases available through the Privy Council in London. Procedural safeguards include the right to defense counsel, the right to an interpreter, the right to a speedy trial, and the right to confront accusers.

The civil law, based on English common law, provides citizens with a fair and efficient judicial process. Shari’a (Islamic law) supersedes civil law in some areas, including divorce, inheritance, and some sexual crimes. Shari’a law is not applied to

non-Muslims. During the year, lawyers trained in both civil and Shari'a law were working on a proposed alignment of the country's two legal systems into a comprehensive legal code. A "Law Society" (bar association) to promote lawyers' public accountability was established in July. The civil law lacks provisions to allow companies or individuals to sue the Government, which traditionally resolves disputes with generous, non-negotiable settlements, or, in some cases, simply refuses to settle. There is no legal provision to provide affordable legal counsel for poor defendants, except in capital cases. Such defendants may act as their own lawyers in court.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—Civil law permits government intrusion into the privacy of individual persons, families, and homes. However, such intrusion rarely occurred. Shari'a law permits enforcement of "khalwat," an Islamic prohibition on the close proximity of a Muslim and a member of the opposite sex other than a spouse. There were numerous reports of religious enforcement officers entering homes, buildings, and vehicles to detain suspects.

Section 2. Respect for Civil Liberties, Including:

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

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

Prior to the promulgation of this new law, foreign newspapers or magazines with articles that were found to be objectionable, embarrassing, or critical of the Sultan, the royal family, or the Government were not allowed into the country at times. Magazine articles with a Christian theme reportedly were censored (see Section 2.c.). The growing use of fax machines, the Internet, and access to satellite transmissions made it increasingly difficult to keep such material from entering the country.

The country's largest circulation daily newspaper, the Borneo Bulletin, practiced self-censorship in its choice of topics to avoid angering the Government. However, letters to the editor often included comments critical of the Government's handling of certain social, economic, and environmental issues. The Government on occasion responded to public opinion on some issues concerning social or environmental problems. There was 1 Malay-language press, the Media Permata, which circulated approximately 5,000 newspapers. There was also one Chinese-language newspaper.

In 2002, a second daily English-language newspaper, the News Express, lost a suit for slander and defamation brought against it by a law firm. The company that owned the newspaper declared bankruptcy and closed. The newspaper had featured a letters page where citizens and residents expressed their views and complaints, often about government services and, increasingly, about government policy. The newspapers' willingness to publish these expressions of opinion represented a modest extension of press freedom. Prior to its closure, the Immigration Department raided the newspaper on several occasions; and its management and several workers were subsequently convicted of a number of immigration and labor offenses.

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

The Government's tolerance of political criticism was not tested because there was no organized opposition. The English-language newspaper, the Borneo Bulletin, was advised by police not to publish any stories about the activities of the Consumers' Association of Brunei (CAB), a quasi-human rights organization (see Section 4). In the past, the Government arrested those who attempted to propagate unwelcome political views.

Internet use became widespread. During the year, a third Internet board, hosted outside the country, added another avenue through which citizens expressed critical opinions, albeit under pseudonyms. In May, the Internet forum BruneiTalk was blocked for approximately 10 days apparently for discussing business dealings of senior officials. The country's primary Internet service provider was state owned.

The Government generally respected academic freedom; however, some researchers chose to publish from overseas and under a pseudonym when they perceived that subject matter pertaining to the country would not be well received. There were no politically oriented student associations.

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

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

The country had few nongovernmental organizations (NGOs), all of which were based locally and were generally professional, business or social associations. Any NGO seeking to operate in the country is required to apply for permission under the Companies Act. The activities of international service organizations such as Rotary, Kiwanis, and the Lions, which developed out of the established business community, continued to be restricted by the Government. Religious regulations promulgated by the Ministry of Religious Affairs and the State Mufti’s Office prohibited Muslims from joining these organizations.

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

The Government investigated and used its internal security apparatus both against persons whom it considered to be purveyors of radical Islam and against non-Muslims who attempted to proselytize. For example, the Islamist Al-Arqam movement and the Bahai faith remained banned. Citizens deemed to have been influenced by “deviant” preaching (usually students returning from overseas study) were assigned to study seminars organized by mainstream Islamic religious leaders. The Ministry of Religious Affairs prepared the weekly Friday sermons delivered in mosques countrywide.

The Government reinforced the legitimacy of the hereditary monarchy and the observance of traditional and Islamic values through a national ideology known as the Melayu Islam Beraja or “Malay Muslim Monarchy.” Despite the constitutional provisions providing for the full and unconstrained exercise of religious freedom, the Government routinely restricted the practice of non-Muslim religions by prohibiting proselytizing; occasionally denying entry to foreign clergy or particular priests, bishops, or ministers; banning the importation of religious teaching materials or scriptures such as the Bible; and denying requests to expand, or build new churches, temples, and shrines. There has been a Catholic apostolic prefecture in the country since 1998 headed by an ethnic Chinese Bruneian Prefect. During the year, two Christian churches were given permission to repair and expand premises on safety grounds. However, two Christian groups were denied permission to register, which is required by law to worship communally.

Non-Muslims who proselytize may be arrested or detained, and possibly held without charges for an extended period of time. As an example, in December 2000 the Government used the ISA to detain at least seven Christians, two of whom were converts from Islam, for allegedly subversive activities. Three detainees, Malai Taufick bin Haji Mashor, Awang Yunus bin Marang, and Mohd Freddie Chong bin Abdullah, were released in October 2001, after spending 9 months in detention. There were credible reports that one of the Christian detainees, Taufick, was tortured and beaten during his first month of detention, while a second was subjected to intense psychological pressure to return to Islam. When released, Taufick was placed under 1-year house arrest. A second detainee, Yunus, was not permitted to speak in public or travel outside of the country. Government officials maintained that the detentions were security-related (see Section 1.d.).

The Government routinely censored magazine articles on other faiths, blacking out or removing photographs of crucifixes and other Christian religious symbols during the year. In addition, government officials prevented the public display, distribution, and sale of items featuring non-Islamic religious symbols.

The authorities conducted raids sporadically on clubs frequented by foreign residents and foreign workers to confiscate alcohol and foodstuffs that were not prepared in accordance with “halal” requirements (the Islamic requirements for the slaughter of animals and the prohibition on inclusion of pork products in any food). The authorities also increased raids on karaoke establishments operating without a license.

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

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

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

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

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

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

Citizens did not have the right to peacefully change their government. Under the continuing state of emergency, there is no parliament, and political authority and control rests entirely with the Sultan. Members of the Sultan’s appointed Cabinet serve as his principal advisors.

Individuals sought to express their views or to influence government decisions and policies by writing letters to a local newspaper or by petitioning the Sultan or handing him letters when he appears in public (see Section 2.a.).

The country has attempted to institutionalize a form of popular representation based on a traditional system of village chiefs who are elected by secret ballot by all adults. Candidates must be approved by the Government and must be Malay. These leaders are expected to communicate constituents’ wishes through a variety of channels, including periodic meetings chaired by the Home Affairs Minister, with several officials appointed by the Sultan. Regular meetings between senior government officials and “Mukim” (a group of villages) representatives allowed for airing of local grievances and concerns. In 2000, the Foreign Minister confirmed that a review of the Constitution was submitted to the Sultan for approval, and that “an element of an election” was in this report. However, at year’s end, there had been no word on when the revised Constitution might be forthcoming.

The lack of a representative, democratic government seriously limited the role of both men and women in government and politics, although women were limited to a greater extent. There are no women ministers in the Government, although the Sultan’s sister, Princess Masna, was the second ranking official in the Ministry of Foreign Affairs, and there were women ambassadors, judges, and other senior officials.

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

The Consumers’ Association of Brunei (CAB), established in 2002, attempted to address human rights but was impeded by the Government from doing so. Beginning in May 2002, the CAB publicized poor working and living conditions of foreign workers involved in protest work stoppages (see Section 6.e.), the organization received a letter from the Commissioner of Police requesting CAB to show reason why

it should not be deregistered for exceeding its mandate, which primarily focused on consumer rights. Senior CAB members were reportedly subjected to surveillance. The Association was able to show evidence of its mandate to address workers' rights, but subsequently the local media did not publicize the association's activities.

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

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

Women.—The extent of spousal abuse is unknown. During the year, cases of abuse occurred, although specific figures were not available. The criminal penalty for a minor domestic assault is 1 to 2 weeks in jail and a fine. An assault resulting in serious injury is punishable by caning and a longer jail sentence.

A special unit, staffed by female officers, existed within the police department to investigate domestic abuse and child abuse complaints. A hotline was in service for persons to report domestic violence. The Ministry of Culture's Social Affairs Services (SAS) Unit provided counseling for women and their spouses. During the year, approximately 18 female domestic abuse victims were sheltered at the Taman Noor Hidayah, a shelter run by the SAS unit.

According to press reports, the female victims were restricted to the shelter while waiting for their cases to be brought to court. The reports increased pressure on the shelter residents to leave the shelter and drop charges to avoid social stigma.

Islamic courts, staffed by both male and female officials, offered counseling to married couples in domestic violence cases. Officials did not encourage wives to reconcile with flagrantly abusive spouses, and the Islamic courts recognized assault as grounds for divorce.

Female domestic servants, most of whom were foreign workers (see Sections 6.c., 6.e., and 6.f.), were also subjected to abuse. While the level of violence in society generally was low, the beating of servants—or refusing them the right to leave the house on days off, sometimes on grounds that they “might encounter the wrong company”—was more prevalent. Since most foreign female domestics were highly dependent on their employers, those subject to abuse often were unwilling or unable to bring complaints, either to the authorities or to their governments' embassies. However, when such complaints were brought, the Government generally was quick to investigate allegations of abuse and impose fines and punishment as warranted. Several workers settled assault cases out of court with their employers. One foreign embassy maintained a shelter for domestics involved in disputes with employers and was active in protecting their citizens' rights.

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

In accordance with certain Islamic traditions, women are denied equal status with men in a number of important areas such as divorce, inheritance, and custody of children. In 2002, an amendment to the nationality law permitted female citizens to pass their nationality on to their children.

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

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

Religious authorities strongly encouraged Muslim women to wear the “tudong,” a traditional head covering, and most women did so. Most government departments and the uniformed services require female Muslims and non-Muslims to wear the tudong as part of their dress code. All government schools, as well as the national university and other educational institutions, also pressured non-Muslim students to wear the tudong as part of these institutions' uniform.

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

Children.—No statistics were published regarding the welfare of children. The strong commitment to family values within society, the high standard of living, and

government funding for children's welfare provided most children a healthy and nurturing environment. Education is free, compulsory, and universal for the first 9 years; after which, it is still free but no longer compulsory. With a few exceptions, involving small villages in extremely remote areas, nutritional standards were high, and poverty was almost unknown. Medical care for all citizens, including children, was subsidized heavily and widely available. Approximately 20 young female rape and sexual abuse victims, between 9 and 15 years of age, were housed at the government-sponsored Taman Noor Hidayah women's shelter. The penalty for the rape of a minor is imprisonment for from 8 to 30 years and caning with not less than 12 strokes.

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

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

National/Racial/Ethnic Minorities.—There are a sizeable number of "stateless" persons and permanent residents, mostly ethnic Chinese, including those born and raised in the country, who were not automatically accorded citizenship and its attendant rights. They had to travel abroad as stateless persons and did not enjoy the full privileges of citizenship, including the right to own land. Stateless persons and permanent residents also are not entitled to subsidized medical care. In June, a reform to the nationality law allowed some older, stateless persons and some permanent residents over age 50 to acquire citizenship by passing an oral rather than a written nationality test. All stateless persons and permanent residents became entitled to free education at government schools and other vocational and technical institutions.

Section 6. Worker Rights

a. The Right of Association.—Trade unions are legal and independent but must be registered with the Government. All workers, including civil servants other than those serving in the military and those working as prison guards or police officers, may form or join trade unions. However, in practice there was no union activity in the country. The three registered trade unions were all in the oil sector, had a total membership of less than 5 percent of that industry's work force, and were inactive. There were over 80,000 foreign workers in the country, including almost 20 thousand garment industry workers, none of whom are members of any trade union.

The law permits the formation of trade union federations but forbids affiliation with international labor organizations. The country has ratified none of the ILO's eight Fundamental Conventions.

b. The Right to Organize and Bargain Collectively.—Since there was no union activity in the country, questions of government interference in union matters and employer discrimination against union members did not arise. There is no legal foundation for collective bargaining, and strikes are illegal. Wage and benefit packages were based on market conditions.

There is a free trade zone in Muara Port, known as the Muara Export Zone (MEZ). The labor laws are fully applicable in the MEZ.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or bonded labor, including by children; however, there were reports that some foreign domestic workers worked under conditions that resembled bondage (see Section 6.e.). Other workers, most notably in the garment industry, signed contracts with employment agents or other sponsors in their home countries that reduced their promised salaries through payments to the agencies, or sponsors. In response, the Government forbade wage deductions to agencies or sponsors and mandated that employees receive their full salaries.

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

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

e. Acceptable Conditions of Work.—Due to the ongoing economic downturn and reduced government hiring, unemployment has grown in recent years. However, most

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

At least 80,000 foreign nationals worked in the country. There were reports of foreign maids and other domestic workers who worked exceptionally long hours, did not have a rest day, and whose liberty was severely restricted. There also were isolated reports of employers physically beating domestic employees or not providing them with adequate food. The Government prosecuted some such cases.

Government protective measures for foreign workers included arrival briefings for workers, inspections of facilities, and a telephone hotline for worker complaints. Government mediation continued to be most commonly used to resolve labor disputes. Abusive employers also faced criminal and civil penalties. When grievances cannot be resolved, repatriation of foreign workers is at the expense of the employer, and all outstanding wages must be paid. The majority of abuse cases were settled out of court by the payment of financial compensation to the maid by the errant employer.

f. Trafficking in Persons.—Brunei has been a destination country for persons trafficked for labor and sexual exploitation. A statute outlaws sexual exploitation and trafficking of women and girls, and a variety of other laws, primarily those related to prostitution and the protection of minors, could be applied against sex traffickers. However, authorities only rarely investigated and prosecuted sex traffickers, particularly when the victims were foreigners. Immigration, labor, and religious regulations could deter trafficking, but were unevenly implemented. The Government has tightened regulations and enforcement to deter labor traffickers and improved its record in protecting foreign trafficking victims.

Most trafficking occurred in the labor context, as foreign workers were recruited from Indonesia, Malaysia, the Philippines, Pakistan, India, and Bangladesh for work in the garment industries, agriculture, and as domestic servants. There were also a small number of cases of trafficking in women for purposes of sexual exploitation.

While there was awareness among senior officials of the criminal aspects of trafficking in persons for labor and prostitution, there was inadequate understanding of these issues at the operational and enforcement level. There were no awareness programs to educate the public or specific training for government officials on trafficking. In broad preventive measures not specific to trafficking, the Government provided a wide range of social and educational services to citizens, which reduced their vulnerability to trafficking. The Government provided funds for shelters that serviced only citizens and permanent residents, who were rarely the victims of trafficking.

Some embassies provided protection services, including temporary shelter, for workers involved in disputes with employers.

BURMA

Burma is ruled by a highly authoritarian military regime. In 1962, General Ne Win overthrew the elected civilian government and replaced it with a repressive military government dominated by the majority Burman ethnic group. In 1988, the armed forces brutally suppressed pro-democracy demonstrations, and a group composed of 19 military officers, called the State Law and Order Restoration Council (SLORC) took control, abrogated the 1974 Constitution, and has ruled by decree since then. In 1990, pro-democracy parties won over 80 percent of the seats during generally free and fair parliamentary elections, but the Government refused to recognize the results. In 1992, then-General Than Shwe took over the SLORC and in 1997 changed its name to the State Peace and Development Council (SPDC). The 13-member SPDC is the country's de facto government, with subordinate Peace and Development Councils ruling by decree at the division, state, city, township, ward,

and village levels. Several long-running internal ethnic conflicts continued to smolder. The judiciary was not independent and was subject to military control.

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

Though resource-rich, the country is extremely poor; the estimated annual per capita income was approximately \$300. Most of the population of more than 50 million was located in rural areas and lived at subsistence levels. Four decades of military rule, economic mismanagement, and endemic corruption have resulted in widespread poverty, poor health care, declining education levels, poor infrastructure, and continuously deteriorating economic conditions. During the year, the collapse of the private banking sector and the economic consequences of additional international sanctions further weakened the economy.

The Government's extremely poor human rights record worsened, and it continued to commit numerous serious abuses. Citizens still did not have the right to change their government. Security forces continued to commit extrajudicial killings and rape, forcibly relocate persons, use forced labor, conscript child soldiers, and reestablished forced conscription of the civilian population into militia units. During the year, government-affiliated agents killed as many as 70 pro-democracy activists. Disappearances continued, and members of the security forces tortured, beat, and otherwise abused prisoners and detainees. Citizens were subjected to arbitrary arrest without appeal. Arrests and detention for expression of dissenting political views occurred on numerous occasions. During the year, the Government arrested over 270 democracy supporters, primarily members of the country's largest pro-democracy party, the National League for Democracy (NLD). The Government detained many of them in secret locations without notifying their family or providing access to due legal process or counsel. During the year, the Government stated it released approximately 120 political prisoners, but the majority of them had already finished their sentences, and many were common criminals and not political prisoners. By year's end, an estimated 1,300 political prisoners remained in prison. Prison conditions remained harsh and life threatening, although in some prisons conditions improved after the International Committee of the Red Cross (ICRC) was allowed access. The Government did not take steps to prosecute or punish human rights abusers. On May 30, government-affiliated forces attacked an NLD convoy led by party leader Aung San Suu Kyi, leaving several hundred NLD members and pro-democracy supporters missing, under arrest, wounded, raped, or dead. Following the attack, Government authorities detained Aung San Suu Kyi, other NLD party officials, and eyewitnesses to the attack. As of year's end, the Government has not investigated or admitted any role in the attack. The Government subsequently banned all NLD political activities, closed down approximately 100 recently reopened NLD offices, detained the entire 9-member NLD Central Executive Committee, and closely monitored the activities of other political parties throughout the country.

The Government continued to restrict severely freedom of speech, press, assembly, association, and movement. During the year, persons suspected of or charged with pro-democratic political activity were killed or subjected to severe harassment, physical attack, arbitrary arrest, detention without trial, incommunicado detention, house arrest, and the closing of political and economic offices.

The Government restricted freedom of religion, coercively promoted Buddhism over other religions, and imposed restrictions on religious minorities. The Government's control over the country's Muslim minority continued, and acts of discrimination and harassment against Muslims continued. The Government regularly infringed on citizens' privacy; security forces continued to monitor systematically citizens' movements and communications, search homes without warrants, and relocate persons forcibly without just compensation or legal recourse. The SPDC also continued to forcibly relocate large ethnic minority civilian populations in order to deprive armed ethnic groups of civilian bases of support. The Government continued to restrict freedom of movement and, in particular, foreign travel by female citizens under 25 years of age.

The Government did not permit domestic human rights organizations to function independently and remained hostile to outside scrutiny of its human rights record. However, it allowed the U.N. Special Rapporteur on Human Rights (UNSRHR) in Burma to conduct two limited missions to the country, but the Government did not allow the UNSRHR to visit all sites requested or stay for as long as he requested. It also allowed the International Labor Organization (ILO) to operate a liaison office

in Rangoon; however, after the May 30 attack on Aung San Suu Kyi the ILO deferred finalizing a draft agreement with the Government on forced labor. Violence and societal discrimination against women remained problems, as did discrimination against religious and ethnic minorities. The Government continued to restrict worker rights, ban unions, and use forced labor for public works and for the support of military garrisons. Forced child labor remained a serious problem, despite recent ordinances outlawing the practice. The forced use of citizens as porters by SPDC troops—with the attendant mistreatment, illness, and sometimes death—remained a common practice, as did Government forced recruitment of child soldiers. Trafficking in persons, particularly in women and girls primarily for the purposes of prostitution, remained widespread, despite some efforts to address the problem.

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

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—On May 30, government-affiliated forces attacked an NLD convoy led by party leader Aung San Suu Kyi near the village of Depeyin in the northwest region of the country, using bamboo staves and metal pipes to kill or injure pro-democracy supporters. The attackers killed at least six pro-democracy supporters including NLD members San Myint, Tin Maung Oo, Thien Toe Aye, and Khin Maung Kyaw. The two others killed were Min Zaw Oo, a student; and U Panna Thiri, a Buddhist monk from Monywa. Diplomatic representatives received credible reports of two more victims who later died of their injuries, including Tun Aung Kyaw, a political activist from Mandalay who died in early September. Local villagers and survivors of the attack reported to diplomatic representatives that the attackers might have killed as many as 70 pro-democracy supporters accompanying the NLD convoy. By year's end, the fate of the many other wounded persons, including 10 NLD members and 47 pro-democracy supporters from the convoy, remained unknown.

According to credible reports, throughout the rest of the night following the attack, security forces clashed with and may have killed scores of other villagers, students, and Buddhist monks in the villages surrounding the attack site. The Government admitted that 4 persons were killed and 48 were injured in the attack on the NLD convoy but did not acknowledge the alleged killings in the surrounding villages. The Government did not credibly investigate any of the attacks and thus perpetuated a climate of impunity. Officials reportedly involved in the assault were subsequently rewarded. Lieutenant General Soe Win, reportedly involved in planning the attack as the then-SPDC Secretary-Two, was promoted to Secretary-One, a very high-ranking position in the ruling junta. Regional commander Brigadier General Soe Neing, reliably reported to be responsible for executing the attack, was laterally transferred and made commander of the Irrawaddy Division and was not prosecuted or reprimanded.

Organizations like the Shan Human Rights Foundation (SHRF), which has been associated with armed ethnic resistance groups in the past, reported numerous cases throughout the year of military troops killing civilians in border areas and areas of ethnic resistance, often after confiscating property or torturing the individuals (see Sections 1.g. and 5). Interviews by foreign observers documented similar abuses. SHRF reported that in March, two farmers working in their fields were accused of being or helping Shan soldiers. They were shot and killed by a patrol of Burmese Army troops at a farm in Nam-Zarng Township in Shan State. On April 29, a patrol of soldiers shot and killed a displaced farmer on the road just outside Phuay Hai village in Lai-Kha town in Shan State for being unable to sell his rice quota as demanded by government troops. On May 5, a patrol of government troops beat to death a farmer who was working at a remote farm in Shan State. In August, the Karen National Union (KNU), an armed insurgent group, reported that on July 16 battalion commander Myint Htun Oo and company commander Moe Mung arbitrarily and summarily executed Karen village headmen Saw Htoo Pwe Sher and Saw Kyaw Aye Swe.

There were no reports that the Government took action to investigate or prosecute soldiers involved in the following 2002 killings: The April killing of 10 persons, including 6 children, and the injuring of 9 in Karen State; the July reported robbery and killing of 6 civilians near the Thailand border in Shan State; and the September killing of 10 villagers in Kholam, Shan State. There were no reports that the Gov-

ernment took action to investigate or prosecute soldiers involved in the 2001 shooting and killing of 11 prisoners conscripted into forced labor to build a front line camp in Tenasserim Division.

Inmates died in prisons and labor camps, or shortly after being released from them, due to harsh treatment and lack of adequate medical care (see Section 1.c.). During the year, the ICRC believed prison conditions improved slightly from life threatening to poor, though life-threatening conditions could reappear. There were no reports of investigations of deaths in prison and labor camps during the year.

There were several unverified reports of deaths due to security forces using civilians to clear landmines (see Section 1.g.).

Some armed ethnic groups also reportedly committed killings. According to an unconfirmed report, on May 21, SSA-South detonated bombs in four separate places in Tachileik, Shan State, which killed four persons.

b. Disappearance.—Private citizens and political activists continued to “disappear” for periods ranging from several hours to several weeks or more, and many persons never reappeared. Such disappearances generally were attributed to authorities detaining individuals for questioning without the knowledge of their family members, or the army’s practice of seizing private citizens for portage or related duties, often without the knowledge of their family members (see Section 6.c.). In many cases, the individuals who were detained for questioning were released soon afterward and returned to their families.

During the year, Amnesty International (AI) compiled a list of 17 persons who disappeared while in Government detention in 2002 and many remained missing at year’s end. According to AI, in March 2002, seven Myeik Dawei United Front members on the list, Khin Maung, Shew Bay, Tin San, Naig Oo, Kyaw Naing, Than Zaw, and Ohn Lwin were reportedly transferred from Mergui Prison by government soldiers and were executed upon arrival at Done Kyun Island in Tenasserim Division. In July 2002, two NLD members, Cho Lwin and Kyaw Aye, disappeared while in government detention after being transferred from Kawthaung prison. Farmers Thinn Pe and Ba Sein disappeared on August 9, 2002, while in the custody of OCMI officers in Kawthaung. In September 2002, one All Burma Student Democratic Front member, Tin Tun, and three Myeik Dawei United Front members, Nian Soe, Maung Shwe, and Kyaw Myint, disappeared while in the custody of soldiers in southern Tenasserim Division.

The whereabouts of persons seized by military units to serve as porters, as well as prisoners transferred for labor or portage duties, often remained unknown. There also were reports of private citizens who were killed while serving as porters (see Section 1.a.). Family members generally learned of their relatives’ fates only if fellow prisoners survived and later reported information to the families. Diplomatic representatives received a reliable report that on August 16, a 15-year-old student and 3 or 4 other youths disappeared from a Rangoon teashop and were believed to have been forcibly taken by the Government for military portering. The family was not able to locate the boy and his whereabouts remained unknown.

The Government did not provide any new information on the following disappearances from previous years: The April 2002 case of six prisoners who were taken away from the prison in Kawthaung and executed at Ngapyawjoaw village tract to the east of Zatekyi naval base; the alleged August 2002 disappearance of a villager returning from gathering food after being taken by three soldiers to the military camp at Naa Kawng Mu village in Mong Ton Township; and the July 2001 disappearance and reported execution of seven prisoners in Myeik.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—There are laws that prohibit torture; however, members of the security forces reportedly tortured, beat, and otherwise abused prisoners, detainees, and other citizens. They routinely subjected detainees to harsh interrogation techniques designed to intimidate and disorient. There were reports in past years that prisoners were forced to squat or assume stressful, uncomfortable, or painful positions for lengthy periods. There continued to be many credible reports that security forces subjected citizens to harassment and physical abuse. The military forces routinely confiscated property, cash, and food, and used coercive and abusive recruitment methods to procure porters. Persons forced into portage or other labor faced extremely difficult conditions, beatings, lack of food, lack of clean water, and mistreatment that at times resulted in death.

During the year, new reports surfaced of incidents in previous years in which government soldiers beat, raped, and killed persons who resisted relocation, forced conscription, or forced labor. Reports also indicate that the abuses continued during the year. For example, on June 25, the Karen National Union (KNU) reported that a pro-government Democratic Karen Buddhist Army (DKBA) commander threatened

to shoot and kill 21 villagers in Paan Township, Karen State, if village heads did not send a draft of forced labor. On July 8, government soldiers commanded by Mya Htun beat villagers in Lay-Po, Karen State, and then forced them to carry army supplies.

Eyewitnesses reported that during the May 30 attack on the NLD, Government-associated attackers raped several female democracy supporters.

There were credible reports of Government soldiers raping women who were members of ethnic minorities in Shan State and other ethnic minority states (see Section 1.g.).

There was no information that the Government investigated or prosecuted anyone in a June 2002 case in which seven civilians died during forced portage in Keng Tung, Shan State.

The Government did not provide any information indicating that it had investigated or prosecuted anyone for the following torture and abuse cases reported in 2002: The May 2002 case in which troops reportedly burned homes, tortured a village headman by shooting him in the thighs and cutting tendons in his legs, and beat other villagers; and the July 2002 case in which soldiers reportedly shot and wounded villager Saw Poe Tot in Kameik village in Tenasserim Division.

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

During the year, there were several reports of government mistreatment and exploitation of farmers. For example, in February, the Kynguagon Township Peace and Development Council arrested 82 farmers for not providing their paddy rice production quota to the local government. Across the country the Government forced farmers to sell their plots in order to raise money to buy their missed paddy quota. In Wetlet Township in Sagaing Division, local SPDC officials confiscated harvests and destroyed farms while searching for 43 farmers who did not pay their paddy quota in three villages, Saing Naing-Gyi, Musochone, and Yindaw. There were frequent and credible reports that the Government also confiscated land in northern Shan State when farmers could not repay loans taken out to buy and plant a type of Chinese rice hybrid never planted before in Shan State. The Government required the farmers to plant the new rice hybrid. There were a few reports that civil servants in several areas routinely confiscated established farm plots, forcing farmers to buy marginal land to continue their livelihood. In April, the Government ended the system of mandatory advanced sales of rice, allowing farmers to sell their entire crop at market prices, but also ending the farmers' primary source of agricultural credit.

Prison and labor camp conditions generally remained harsh and life threatening. The Government's Department of Prisons operated approximately 35 prisons and approximately 70 labor camps throughout the country (see Section 6.c.). In the prisons, food, clothing, and medical supplies reportedly were in very short supply. Bedding consisted of a single mat on the floor. Prisoners were forced to rely on their families, who were allowed to visit once every 2 weeks for 15 minutes per visit, for basic necessities. Prisoners may be held without charge for weeks or months, and until the prisoner is officially charged with a crime, families cannot visit or send critical supplementary food to the prisoner. HIV/AIDS infection rates in prison reportedly were high due to communal use of single syringes for injections. During the year, the health of several political prisoners deteriorated, and at least one political prisoner, Tin Aye, died in custody (see Section 1.a.).

The Government continued to deny prisoners adequate medical care while in prison. In June, OCMI arrested and imprisoned Soe Win, a Member of Parliament-Elect (M.P.-Elect) for the pro-democracy Party for National Democracy (PND). Diplomatic representatives affirmed when he was released over a month later from OCMI Detention Camp 26, that he suffered from bruises, blindness in one eye, impaired speech, and periodic unconsciousness. After his release, the Government claimed he had attempted suicide by taking an overdose of diuretics, but did not provide any information or proof of an investigation into this case. On September 8, 74-year-old Tin Aye, former Chairman of the University Student Union, died a month after the Government released him directly into the hospital from a lengthy prison sentence. There were reports during the year that the health of U Win Tin, a 73-year-old journalist who has been in prison since 1989 for his political activities, continued to decline. Similarly, there were serious concerns about the health of Min Ko Naing, a student leader also arrested in 1989 and subjected to years of isolation and torture and whose 15-year sentence was arbitrarily extended in 1999 for 5 more years. Chairman of the Democratic Party for New Society, Aung Zaya, who was released this year after 11 years in detention, became paralyzed from abuse and inadequate medical attention during his imprisonment and can now only crawl. The Assistance Association for Political Prisoners (AAPP) reported last year that in May 2002, pris-

on authorities severely beat two political prisoners in Bassein prison because they submitted a complaint to the prison superintendent.

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

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

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

The police are auxiliary forces of the military and are under direct command of military officers. They usually deal only with common crimes and do not handle political crimes. The National police force is administratively under the Ministry of Home Affairs. Corruption and impunity were serious problems due to a government-imposed system whereby police were forced to collect funds for their operations. Police typically required victims to pay substantial sums for crime investigations, and police often extorted money from the civil population. At year's end, there were no plans to reform the police force.

OCMI officers are responsible for arresting persons suspected of "political crimes" that threaten or could undermine the Government. Upon arrest, OCMI officers, or in some cases police officers, place a hood on the suspect and take him to an OCMI regional interrogation center. OCMI officers interrogate the arrested person for a period ranging from hours to months and can charge the person with a crime at any time during the interrogation. Arbitrary or false charges were common, often under the "Emergency Act of 1950," which allows for indefinite detention. In November 2002, OCMI officers arrested Shwe Maung for making a symbolic golden hat for Aung San Suu Kyi and placed him in a dark cell for 4 months before falsely charging him with "keeping stolen goods."

The Government continued to arrest and detain citizens arbitrarily. For example, on January 16, the OCMI arrested two Buddhist nuns for shouting pro-democracy slogans and handing out pamphlets in front of the Rangoon city hall. Denied legal representation, the nuns were subsequently sentenced to 3 years in prison. On May 30, the Government arbitrarily detained Aung San Suu Kyi and over 100 of her accompanying supporters. Following 4 months of incommunicado detention, Aung San Suu Kyi was transferred to house arrest while most of the others remained imprisoned in remote regions of Burma. At year's end, all but 14 have been released. The Government tightly restricted independent observers' access to her and to all other political prisoners. In the days following the May 30 attack, the OCMI detained over 100 additional NLD members across the country. Some of them were charged with political crimes, and some were simply detained arbitrarily. At year's end, all but 25 had been released. On June 3, OCMI officers arrested Ko Myo Khin for demanding that authorities reopen the NLD office in Bahan Township, Rangoon. Family members were denied access to him for months, and at year's end, he reportedly was sentenced to 3 years in Insein Prison. In December, the Government rejected his appeal; however, his family and lawyer were finally allowed to visit him. On September 23, OCMI officers and local police arrested Phon Aung for demonstrating outside Rangoon city hall and calling for the release of Aung San Suu Kyi. At year's end, his location was unknown.

In September 2002, the Government arrested at least 30 political activists in Rangoon. Among those arrested was Hla Tun, an NLD Member of Parliament (MP)-Elect from the 1990 election who had not been active in the NLD since he was released from prison in 1999. The Government eventually released several activists, including Hla Tun, but according to international press reports the Government sentenced four of the activists to 3-year prison terms. There was no information available on the many other 2002 arbitrary arrest cases.

In 2001, the Government arrested arbitrarily Soe Han, a 77-year-old highly respected and nonpolitical lawyer, and several other persons with him. They were sentenced to 21 years in prison for sending a letter to Senior General Than Shwe and then-Secretary One Khin Nyunt asking them to reopen NLD offices. At year's end, all remained incarcerated.

The Government arbitrarily extends prison sentences under the “Law Safeguarding the State from the Dangers of Subversive Elements.” The Minister of Home Affairs can impose the law every 2 months for a year, and the SPDC Chairman can add 5 years to a sentence. On March 30, Kyaw Hsan, a 74-year old M.P.-Elect and retired army colonel, completed his politically motivated 10-year prison term and was being released; however, when in sight of his family at the prison gate he was forced to return to his cell. At year’s end, he was still being held indefinitely in prison. In Mandalay, 10 political prisoners, including Ne Win, Tin Aye Yu, Tin Myint, Tin Aye, Zarni Aung, Thein Than Oo, Kyaw Sein Maung, Naing Myint, Htay Nyunt, and Soe Myint, completed their terms but were not released. In April, the Government released three prisoners held under this law: Zaw Min, Dr Htay Thein, and Tin Myint. At year’s end, the Government was holding approximately 50 students and political activists in prison beyond the expiration of their sentences under this law, including Min Ko Naing, who was reportedly in poor health.

The Government informed diplomatic representatives that by September, it had either released or charged all political prisoners arrested formally in connection with the May 30 attack on the NLD convoy. However, diplomatic representatives noted that the Government prevented approximately a dozen families from making prison visits, indicating that the Government had not charged all political prisoners detained on May 30, and is likely holding them indefinitely under the Law Safeguarding the State from the Danger of Subversive Elements.

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

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

The abrogated 1974 Constitution did not provide for forced exile, and the Government did not use forced exile.

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

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

There is a fundamental difference between criminal and political trial procedures. Some basic due process rights, including the right to be represented by a defense attorney, generally were respected in criminal cases, but not in political cases that the Government deemed especially sensitive. In criminal cases, defense attorneys generally are permitted 15 days to prepare for trial, are permitted to call and cross-examine witnesses, and can be granted a 15-day delay for case preparation; however, their primary purpose is to bargain with the judge to obtain the shortest possible sentence for their clients. Reliable reports indicate that senior military authorities dictate verdicts in political cases, regardless of the evidence or the law. Political trials are not open to the public. None of the NLD members or the hundreds of prodemocracy supporters arrested on May 30 and immediately afterwards were given public trials.

During the year, there were no new arrests of lawyers perceived to have NLD connections, and NLD members appeared to be able to retain the counsel of lawyers without fear of the lawyers being imprisoned; however, approximately 20 of the more than 40 lawyers jailed in 2000 remained imprisoned at year’s end.

During the year, the majority of prison releases were of prisoners who had completed or nearly completed their sentences, or who were in poor health. The Government required most political prisoners to sign a release form agreeing to serve the remainder of their terms if rearrested for any reason. For example, following the May 30 attack on Aung San Suu Kyi and NLD members, the Government detained M.P.-Elect Hla Min for one month, released him, and immediately re-imprisoned him to serve the remainder of a previous prison term.

At year’s end, the ICRC reported there were approximately 3,500 “security detainees” in the country (see Section 1.d.). Of these, diplomatic observers estimated 1,300 were political prisoners, of which 38 were NLD M.P.s-Elect from the 1990 elections.

Among prisoners released this year was Professor Salai Tun Than, a 74-year-old academic who was sentenced to 7 years' imprisonment in March 2002 for staging a peaceful protest in November 2001. Ninety-one of the NLD and pro-democracy supporters arrested on May 30 who were not charged were released within 2 months.

In 2000, the Government allowed Aung San Suu Kyi's brother, who is not a Burmese citizen, to file a suit against her seeking half ownership of the family compound in which she resided. The case widely was believed to be motivated politically, because the Government generally did not allow foreigners to file claims for property against citizens. In fact, the Government had to grant a special authority to the brother for the case to be filed at all. The trial was public and lasted for several months. The case eventually was dismissed for having been filed improperly. However, the Government granted the brother authority to file a second suit, and in October 2002, the judge presiding over the case ruled that Aung San Suu Kyi's brother had the right to inherit the property under Buddhist customary law. The case was continuing at year's end.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The abrogated 1974 Constitution did not provide for rights to privacy, and authorities infringed routinely on citizens' privacy rights. The military Government interfered extensively and arbitrarily in the lives of citizens. Through its pervasive intelligence network and administrative procedures, the Government systematically monitored the travel of all citizens and closely monitored the activities of many citizens, particularly those known to be active politically.

The law requires that any person who spends the night at a place other than his registered domicile inform the police in advance, and that any household that hosts a person not domiciled there to maintain and submit to the police a guest list. Security forces significantly increased surveillance of civilians following the May 30 Depeyin attack and also after various bombings in Rangoon during the year. Ward-level SPDC officials stepped up extensive unannounced nighttime checks of residences for unregistered visitors.

Security personnel regularly screened private correspondence and telephone calls. The authorities generally continued to discourage citizens from subscribing directly to foreign publications (see Section 2.a.).

The Government continued to control and monitor closely the licensing and rationing of all two-way electronic communication devices. Possession of an unregistered telephone, facsimile machine, or computer modem was punishable by imprisonment (see Section 2.a.). For example, users of unregistered cordless telephones in the country face up to 3 years' imprisonment, and/or a steep fine.

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

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

A September 2002 report by a highly respected private citizen in Thailand estimated more than 2,500 villages have been destroyed or forcibly relocated by government forces since 1996, displacing more than 600,000 citizens. The report estimated that more than 350,000 of these citizens were moved to government-controlled "relocation centers," while the remainder lived in hiding. This practice was particularly widespread in the Shan, Kayah, and Karen States, and in areas of Mon State and Pegu Division. In these areas, thousands of civilian villagers were displaced from their traditional villages, which often were burned to the ground and moved into settlements tightly controlled by SPDC troops in strategic areas. In other cases, villagers who fled or were driven from their homes, found shelter in the forest, frequently in heavily mined areas without adequate food, security, or basic medical care.

The forced relocations often generated large refugee flows to neighboring countries or to parts of the country not controlled by the Government. In some areas, the Government replaced the original ethnic settlements with settlements of ethnic Burmans. In other areas, army units forced or attempted to force ethnic Karens to relocate to areas controlled by the DKBA.

Military units also routinely confiscated livestock, fuel, food supplies, fishponds, alcoholic drinks, vehicles, or money. Such abuses have become widespread since 1997, when the junta ordered its regional commanders to meet their logistical needs locally rather than rely on the central authorities. As a result, regional commanders increased their use of forced contributions of money, food, labor, and building materials throughout the country (see Sections 1.c. and 6.c.).

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

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

In the past, authorities, including senior officials, repeatedly warned parents that authorities could hold them responsible for any political offenses committed by their children; however, there were no reports of this practice during the past 2 years.

The Government's intelligence services also monitored the movements of foreigners and questioned citizens about conversations with foreigners. Government employees generally were required to obtain advance permission before meeting with foreigners. During the year, international NGOs officially were required to ensure that a representative from a government ministry accompanied them on all field visits (at the NGOs' expense). Though the requirement was impractical and was not always enforced, it was more fully enforced during times of official anxiety about democratic opposition activities. Diplomatic missions were at times also subjected to the requirement (see Section 4).

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

g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.—Since independence in 1948, large numbers of ethnic insurgent groups have battled government troops for autonomy or independence from the Burman-dominated state. Since 1989, 17 groups have concluded cease-fire agreements with the Government. Under the agreements, the groups have retained their own armed forces and performed some administrative functions within specified territories inhabited chiefly by members of their own ethnic groups. However, a few groups remained in active resistance. The KNU continued to conduct insurgent operations in areas with significant Karen populations in the eastern and southern regions of the country. In Kayah State, the KNPP resumed fighting against the Government since the breakdown of a cease-fire negotiated in 1995. In southern Shan State, the SSA-South continued to resist the Burmese Army's presence in their traditional territory.

During the year, diplomatic representatives received credible first-hand accounts that in April 2002, government troops tortured and detained seven Karen clergymen in Paan, Karen State, and in Moulemein, Mon State. The soldiers also confiscated 13 cows, 5 bullock carts, and household goods, and extorted money before burning down 2 churches and 11 houses. Two clergymen were held for 2 months before release and were forced to sign a statement saying they were not mistreated. The Government ordered the National Investigation Bureau, a division of the National Police Force, to investigate the incident; however, there was no information that the Government prosecuted any of the soldiers for the abuses.

According to an April report from Refugees International (RI), titled "No Safe Place: Burma's Army and the Rape of Ethnic Women," the Burmese military used rape on a widespread basis over the previous 4 years against ethnic Karen, Mon, Karenni, and Tavoyan women in a pattern of abuse designed to control and terrorize ethnic populations. During a month of interviews on the Thai-Burma border, RI independently substantiated 23 rape cases and learned of over 75 more. As of year's end, the Government had not officially responded to the RI report.

RI and other NGOs reported that Burmese Army soldiers raped numerous women in Shan State and other ethnic regions in 2002 and during the year. For example, on April 5, a captain raped a 20-year-old woman in a township in Shan State, while another soldier restrained her husband. On April 7, the woman and her husband

reported the rape to SPDC authorities in the area; however, after no action was taken they began to fear for their safety and fled across the border to Thailand. On August 16, a captain and 20 other soldiers gang-raped a woman in a village in a township in Shan State. The captain then threatened to punish the village headman and the villagers if anyone reported the rape. In April 2002, 5 or 6 soldiers gang-raped a 37-year-old woman in Wan Hi Seng Township. In August 2002, soldiers reportedly raped four women in Wan Kun Lu Township, Shan State. Also in August 2002, soldiers raped a 37-year-old woman in Lai Ka Township. There was no information that the Government investigated these abuses.

In May 2002, the SHRF and Shan Women's Action Network (SWAN) alleged that the Burmese Army used rape as a systematic weapon of war against the ethnic populations in Shan State. The report described 173 incidents of rape or sexual violence against 625 women and girls committed by soldiers from 52 military battalions between 1992 and 2001. The report concluded that given the brutality of the rapes (the report stated that 25 percent of the rapes resulted in death), the incidence of rapes by officers (83 percent), and the impunity with which they were carried out, the rapes were condoned by the Government in order to terrorize and subjugate the ethnic Shan. There were corroborating reports on rapes and sexual violence by the military in Shan State and elsewhere, including first-hand accounts from rape victims documented by diplomatic representatives.

The Government denied the SHRF/SWAN allegations of systematic rape and ordered three internal reviews. In August 2002, the Government claimed that no soldiers were involved in the rapes. In October 2002, the Government stated it continued to investigate the allegations and had found evidence of five cases of rape similar to those described in the SHRF/SWAN report. The Government stated it provided copies of its report on the investigations to the international community and to the UNSRHR, Paulo Sergio Pinheiro. However, according to Pinheiro, the investigations were undertaken by military and other government personnel with no special skills or experience in investigating human rights allegations. The investigations reportedly consisted of prearranged, large, collective, and public meetings with local officials, organized by military personnel. There has been continued international pressure on the Government to allow an independent assessment of the allegations and to take appropriate actions to prevent rape and sexual abuses by the military. By year's end, the Government had not allowed Pinheiro to visit the conflict areas in the Shan State to corroborate the information provided to him about Burmese Army rapes in his own previous interviews with refugees in Thailand.

The Government took some action on one rape case reported in 2002: The August 2002 case in which an army captain reportedly raped a 4-year-old child in Yusomoso, a mainly Catholic village in Timoso Township in Kayah State. Military authorities reportedly offered the villagers approximately \$20 (20,000 kyat) to drop the case. In early 2003, after pressure from a Burmese religious leader, the Government arrested the captain and relieved his battalion commander of command; however, local army officers warned village leaders to report further problems to the military, not to their church.

There is no information that the Government investigated or prosecuted anyone for the following rape cases in 2002: The October case of two soldiers who beat and raped a woman doing laundry near Keng Tung Township and threw her unconscious into the river, and the October case of six or seven soldiers who reportedly raped two women in Mung-Khark Township or the hundreds of other cases reported by NGOs.

In central and southern Shan State, security forces continued to engage the SSA-South. The military maintained a program of forced relocation of villagers in that region to SPDC-controlled sites that reportedly was accompanied by killings, rapes, and other abuses of civilian villagers. AI reported in 2002 that 90 percent of the civilians from Shan State interviewed in Thailand in February said they had been subjected to unpaid forced labor by the military within the previous 18 months.

According to credible but unconfirmed KNU press releases, government troops used systematic and widespread excessive force in conflict areas in eastern Burma during the year. On June 30, combined troops of the Burmese Army and a DKBA unit arrested and tortured a villager in Noe-aw-lar village, Paan Township. When he later escaped, the troops extorted \$450 (450,000 kyat) and a cow from his mother. On July 5, soldiers extorted \$200 (200,000 kyat) worth of food from the villagers in Sha-zi-bo village, and abducted a woman from Zi-pyu-gon village. At year's end, it was not known if she had been released. On July 22, in Nyaung-lay-bin district, government troops shot and killed a man from Thaw-nge-doe village, Kyauk-kyi Township, and took \$50 (50,000 kyat) from his body.

From August 5 until mid-October, government soldiers reportedly forced villagers from Na Bue Township to porter ammunition and supplies and to act as mine

sweepers for the troops. Many villagers and prisoners have been killed or injured from subsequent landmine explosions.

There is no information that the Government investigated or prosecuted anyone for the following 2001 abuses: The January 2001 case in Murng-Nai in which military troops beat to death a Palaung man, raped his wife, and stole his property; the March 2001 case in which government troops gang-raped a woman in Mornng-Ton Township after troops had tortured and killed her uncle; and the April 2001 case in which government soldiers reportedly raped a woman and extorted money from other villagers near Naa Ing village in Shan State.

According to a 2002 Human Rights Watch (HRW) report, government troops conscripted children as young as the age of 11 (see Section 5).

Active insurgent groups included the Chin National Front, the Naga National Council, the Arakan-Rohingya Solidarity Organization (ARNO), the SSA-South, and the KNU (including its affiliate the Karen National Liberation Army). Some members of the insurgent groups committed serious abuses. For example, according to a government report, the KNU blew up a cinema hall on May 16 in Phyu Township, Pegu Division, injuring 50 people. The KNU denied responsibility. According to another government report, the KNPP killed seven villagers in 2001 who refused to join their ranks in Loikaw Township. UNICEF, AI, and HRW reported that insurgent groups as well as government forces recruited child soldiers (see Section 5).

Section 2. Respect for Civil Liberties, Including:

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

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

There was a report from the Democratic Voice of Burma that the OCMI arrested five editors of the sports journal *First Eleven* for publishing articles on corruption in local sports. The Government charged two editors: Zaw Thet Htwe, a former student leader, and Win Pa Pa Hlaing, daughter of NLD MP-Elect Ohn Kyaing. In November, Zaw Thet Htwe was sentenced to death. In August 2001, a monk named Ashin Pandita reportedly was derobed and detained at a police station for criticizing economic and political conditions in a sermon at the Mahamyatmuni Payagyi Pagoda in Mandalay. No additional information was available at year’s end.

Early in the year, the Government permitted the NLD to conduct some public meetings and reopen local offices. The NLD continued to press for substantive dialogue on political reform with the Government and publicly voiced criticisms of the policies or actions of the Government. After the May 30 attack on Aung San Suu Kyi’s NLD convoy, public meetings were banned and the security services immediately clamped down on already restricted political speech (see Sections 1.a. and 1.d.).

Many prominent writers and journalists remained in prison for expressing their political views. The Paris-based organization *Reporters Sans Frontieres* reported that at least 16 journalists remained in prison at year’s end, including Ohn Kyaing, better known by his pen name Aung Wint, who wrote articles in favor of democracy and also was a NLD M.P.-Elect from Mandalay. He has been in prison since 1990. Government censorship boards prohibited publication or distribution of works authored by those in prison.

During the year, the Government arrested dozens of persons for distributing anti-government leaflets, including Thet Naung Soe, Nandar Sit Augn, Zaw Lin Tun, Kyaw Soe Moe, Kyaw Kyaw, and Win Ko. In January, the Government arrested two Buddhist nuns, Than Than Htay and Thin Thin Oo, and sentenced them to 13 years for staging a protest in front of the Rangoon city hall.

The Government owned and controlled all daily newspapers and domestic radio and television broadcasting facilities. These official media remained propaganda organs of the Government and usually did not report opposing views except to criticize them. The only partial exception was the *Myanmar Times*, an expensive English-language weekly newspaper, targeted at the foreign community in Rangoon. Al-

though the Myanmar Times was censored and was pro-government, the newspaper occasionally reported on criticisms of government policies by the U.N. and other international organizations.

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

Imported publications remained subject in principle to pre-distribution censorship by state censorship boards, and possession of publications not approved by the state censorship boards remained a serious offense. Cases involving pro-democracy literature included one case in which the Government imprisoned approximately a dozen students for distributing uncensored leaflets describing the May 30 attack. The Government also restricted the legal importation of foreign news periodicals and discouraged subscriptions to foreign periodicals; however, foreign newspapers could be purchased in Rangoon. Starting in 2001 some foreign newspapers and magazines were distributed uncensored.

Since 1997, the Government issued few visas to foreign journalists and has held only a handful of press conferences on political subjects. Journalists were frequently blacklisted. In previous years, several journalists who entered the country as tourists were detained and deported by the Government. During the year, the Government held several press conferences, including one on Trafficking in Persons and another on the May 30 attack and allowed Burmese representatives of international media sources to attend; however, the local press did not publish any questions or answers from the press conference that dealt with the May 30 attack.

Due to widespread poverty, limited literacy, and poor infrastructure, radio remained the most important medium of mass communication. News periodicals rarely circulated outside urban areas. The Government continued to monopolize and control the content of the two domestic radio stations. Foreign radio broadcasts, such as those of Radio Free Asia, the Voice of America, the BBC, Democratic Voice of Burma, and Radio Veritas Burmese Service remained the principal sources of uncensored information. Diplomatic sources reported that ownership of small radio receivers increased significantly over recent years due to government relaxation of import restrictions, which allowed affordable Chinese-made radios to flood the market.

The Government continued to monopolize and to control tightly all domestic television broadcasting, offering only an official channel and an armed forces channel. In 2001, the Government loosened controls over the use of satellite television that allowed the general population to register satellite receivers for a fee. Previously only a few businesses and individuals with special connections to the Government were allowed licenses for satellite receivers. Illegal satellite television was also available, but access to satellite television remained far beyond reach of the vast majority of the population due to widespread and severe poverty and, outside of urban areas, due to lack of electricity. The Television and Video Law makes it a criminal offense to publish, distribute, or possess a videotape not approved by a state censorship board; however, this law was only selectively enforced.

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

The Ministry of Defense operated the country's only known Internet server and offered expensive, limited Internet services to a small number of customers. There are several Internet cafes and service providers; however, access was cost prohibitive and the Government restricted full access to the web and prohibited the use of commercial "free e-mail" providers. The Government also monitored all e-mail communications.

The Government continued to restrict academic freedom severely. University teachers and professors remained subject to the same restrictions on freedom of speech, political activities, and publications as other state employees. The Ministry of Higher Education routinely warned teachers against criticizing the Government. It also instructed them not to discuss politics while at work; prohibited them from joining or supporting political parties or from engaging in political activity; and required them to obtain advance ministerial approval for meetings with foreigners. Like all state employees, professors and teachers have been coerced into joining the USDA, the Government's mass mobilization organization. Teachers at all levels also continued to be held responsible for the political activities of their students. Foreigners were not permitted on university campuses without prior approval and were

not allowed to attend any meetings involving students, including graduation ceremonies.

The Government took a number of special measures to limit the possibility of student unrest. Campuses were moved to relatively remote areas, teachers and students were warned that disturbances would be dealt with severely, and on-campus dormitories were closed, which disrupted university life. The quality of education deteriorated to such an extent that many students opted to use self-study or private tutoring. Immediately after the May 30 attack on the NLD, the Government closed the University of Distance Education and the Rangoon Arts and Science University for 3 weeks. The Government placed heavy security around the other schools that remained open.

The Government tightly controlled the limited number of private academic institutions in the country as well as what they were allowed to teach.

b. Freedom of Peaceful Assembly and Association.—The law limits the freedom of assembly, and the Government restricted it in practice. An ordinance officially prohibits unauthorized outdoor assemblies of more than five persons, although the ordinance was not enforced consistently. The Government imposed a complete ban on all NLD party activities following the May 30 events, and the 9 other legally registered political parties were required to request permission from the Government to hold meetings of their members; nevertheless, meetings occurred without Government permission.

The Government continued its decade-long policy of preventing the Parliament elected in 1990 from convening. Following the May 30 attack on the NLD, the Government tightened restrictions and closed every NLD office in the country.

In previous years, authorities used force to prevent pro-democracy demonstrations, punish participants and organizers in pro-democracy demonstrations and meetings, and detained or imprisoned persons suspected of planning and organizing such demonstrations (see Section 1.c.). Prior to May 30, authorities increased attempts to prevent the public from coming out to see Aung San Suu Kyi when she traveled to Chin State, Irrawaddy Division, Kachin State, Rakhine State, and Sagaing Division, ostensibly on the grounds that outdoor political gatherings of any type were illegal. The authorities blockaded streets and told citizens to stay home. The Union Solidarity and Development Association (USDA), a pro-government mass organization created by the SPDC, handed out leaflets that questioned Aung San Suu Kyi's patriotism and discouraged citizens from showing any support for her. Tens of thousands of supporters defied authorities and attended Aung San Suu Kyi's speech. Authorities detained or interrogated hundreds of NLD supporters after the NLD leader's departure.

The Government forced civil servants to join the USDA, which subsequently staged mass rallies supporting government policies.

During the first 5 months of the year, Government security forces failed to protect peaceful NLD assemblies from violence in Rakhine State, Kachin State, Sagaing Division, and Irrawaddy Division. The USDA and the Government-sponsored intimidation group "Members of People's Power" were allowed or encouraged to verbally and physically attack the NLD assemblies in each case.

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

In the past, while the Government allowed the NLD to celebrate certain key party events with public gatherings, it restricted the size of the gatherings and the individuals who were allowed to attend. For example, in September 2001, the NLD held a ceremony to commemorate the third anniversary of the Committee Representing the People's Parliament (CRPP) and the Government responded by surrounding NLD headquarters with Military Intelligence (MI) personnel. In 2000, the Government prevented Aung San Suu Kyi from attending party meetings in Rangoon. Early in the year, the Government lifted most of these restrictions on NLD activities but, after May 30, all opposition political assemblies and meetings were banned.

The Government restricted freedom of association, particularly in regard to members of the NLD. The Government tried to coerce hundreds of NLD members to resign from their party positions. Additionally, the Government targeted all non-governmental organizations (NGOs) and other groups in the country through an aggressive anti-NLD, anti-West media campaign. Targets included U.N. agencies, international and local NGOs, political parties, ethnic groups, and foreign diplomatic missions.

The Government further violated the right of association by compelling civil servants to join the USDA pro-regime mass organization. The Government coerced secondary school and college level students to join when registering for classes. The Government also coerced skilled trades workers and professional association members to join the USDA.

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

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

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

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

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

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

Christian groups continued to have difficulties in obtaining permission to build new churches. The Government reportedly denied permission for churches to be built along main roads in cities such as Myitkyina, the capital of Kachin State. In 2001 in Rangoon, authorities closed more than 80 home-churches because their operators did not have proper authorizations to hold religious meetings. During the year, Christian clergy from Karen and Chin States, and from new satellite towns around Rangoon, reported that the Government continued to force them to close home-based chapels.

Muslims again reported that in some locations they were banned from constructing new mosques during the year. During the previous 2 years, local authorities in Rakhine State scheduled approximately 40 mosques for destruction because reportedly they were built without permission. Thirteen mosques were destroyed before the authorities intervened at the request of the UNHCR. To ensure mosques were not rebuilt, some were replaced with government owned buildings, monasteries, and Buddhist temples. During the year, the Government granted authorization in writing to repair existing mosques in some locations.

In most regions of the country, Christian and Muslim groups that sought to build small churches or mosques on side streets or other inconspicuous locations at times

were able to proceed, but only based on informal approval from local authorities. These groups reported that formal requests encountered long delays and generally were denied.

In October, there were several incidents of Buddhist-Muslim violence near Mandalay and in Rangoon. Muslim groups in Rangoon claimed that seven persons were killed and two mosques were destroyed in the violence near Mandalay. It was unclear what sparked these clashes. Although it was slow to react to the Mandalay area violence, the Government reacted quickly in Rangoon, sending troops into Muslim neighborhoods and imposing a strict curfew on Buddhist monasteries. This latter action caused resentment among many Buddhist monks, and the authorities arrested several monks for not observing the curfew.

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

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

Religious publications remained subject to control and censorship (see Section 2.a.). Translations of the Bible and Koran into indigenous languages could not be imported legally; however, with the Government's permission, Bibles in indigenous languages were permitted to be printed locally.

There continued to be evidence that Christian Chins were pressured to attend Buddhist seminaries and monasteries and were encouraged to convert to Buddhism. Local government officials reportedly separated the children of Chin Christians from their parents under the pretense of providing them free secular education, and lodged the children in Buddhist monasteries in which they were given religious instruction and converted to Buddhism without their parents' knowledge or consent. Reports suggested that the Government sought to induce members of the Naga ethnic group to convert to Buddhism by means similar to those it used to convert members of the Chin to Buddhism.

Citizens and permanent residents of the country were required to carry Government-issued national registration cards that in a large number of cases indicate religious affiliation. There appeared to be no consistent criteria governing whether a person's religion was indicated on his or her identification card. Citizens also were required to indicate their religion on some official application forms, such as passports.

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

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

In past years, the Government rigorously curtailed freedom of movement of opposition political leaders. Between May 2002 and May 2003, following her release from house detention, Aung San Suu Kyi traveled to several states and divisions. Early in the year, government-affiliated groups increasingly harassed democratic opposition members during travel outside of Rangoon, culminating in the attack on May 30 and the subsequent arrest and detention of the survivors (see Sections 1.d. and 2.b.). The Government maintained close control over ethnic leaders' movements, requiring them to seek permission from the Government before making any domestic trips.

Since 2001, the Government implemented policies to consolidate the border with Bangladesh and to further control the movement of Muslim Rohingyas in border and interior areas; however, the border remained relatively porous.

The Government refused to accept Burmese deportees from other countries, but accepted the return of several thousand illegal migrants from Thailand.

The Government also carefully scrutinized prospective travel abroad. Rigorous control of passport and exit visa issuance perpetuated rampant corruption, as applicants were forced to pay large bribes from \$300 (300,000 kyat) on average, the equivalent of a yearly salary, to \$1,000 (1 million kyat) for a single female under 25. The official board that reviews passport applications has denied passports on political grounds. All college graduates who obtained a passport (except for certain official employees) were required to pay a special fee to reimburse the Government for the cost of their education. Citizens who emigrated legally generally were allowed to return to visit relatives, and some who lived abroad illegally and acquired foreign citizenship also were able to return.

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

The Government prohibited some foreign diplomats and foreign employees of U.N. agencies based in Rangoon from traveling outside the capital without advance permission. The Government waived the requirement for the ILO. The Government required all foreign and local residents, except diplomats, to apply for authorization to leave the country.

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

There were a large number of internally displaced persons (IDPs) in the country. In December 2002, the U.S. Committee for Refugees reported that the country had an estimated 600,000 to 1 million IDPs. In 2002, NGOs based in Thailand estimated that the Government moved forcibly more than 250,000 citizens from their villages and districts to live near or along the Thai border (see Section 5). These NGOs estimated that more than 350,000 IDPs resided in government relocation sites.

During the year, the military continued to abuse thousands of villagers and drove them from their homes, particularly during the course of military campaigns in Karen, Kayah, and Shan States (see Section 1.f.). In July, the Burmese Army and the DKBA launched a military campaign against the KNU, and by mid-October had displaced over 500 civilians. Diplomatic representatives received reports that the Burmese Army conscripted many villagers unable to flee to Thailand for forced labor or portering, specifically from villages in the Mae-Ple-Doe area of Paan Township, Karen State. In January 2002, AI reported that a 75-year-old Shan man had stated that he and his family fled to Thailand after government troops and United Wa State Army (UWSA) troops confiscated all their land, arrested villagers, looted homes, raped numerous women, and drove them out of their village. He reported that between 500 and 600 UWSA troops occupied the area, and that he received no compensation for the loss of his woodlands, orchards, and fields. There were no reports of the Government investigating or prosecuting anyone for these abuses.

Reports of forced relocation in urban areas lessened on the whole; however, since late 2002 there were still reports of the Government forcibly relocating households for "security" reasons. In Rangoon there were several commercially motivated forced relocations. In one case, the Government forced retired civil servants, who had lived for generations in downtown Rangoon, to move out with inadequate compensation. Senior Government officials ignored appeals, and under duress many residents accepted relocation to apartments estimated to be worth approximately 10 percent the value of their vacated homes. There were numerous reports that Government troops looted and confiscated property and possessions from forcibly relocated persons, or persons who were away from their homes; these materials often were used for military construction. Diplomatic representatives reported that commandeering privately owned vehicles for military transport without compensating the vehicle owners was also commonplace throughout the country.

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

The law does not provide for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and, in practice, the Government generally neither pro-

vides protection against refoulement nor grants refugee or asylum status. Harassment, fear of repression, and deteriorating socio-economic conditions continued to force many citizens into neighboring countries and beyond. In the border regions populated by minority ethnic groups, the Government continued its practices of forced labor, confiscation of lands, compulsory contributions of food, and forced relocations. These policies produced thousands of refugees in neighboring countries such as Thailand, China, and India. One report from Kachin State alleged that in May 2001, 3,000 Naga villagers fled the country into northeastern India when SPDC troops launched an offensive against Naga separatists. During the year, their numbers swelled to 15,000, after which they were pressured to return to Burma. They are now reportedly stuck in difficult conditions on the Indian side of the Burma-India border. The security forces reportedly burned villages and laid landmines to discourage villagers from returning. During 2002, harsh conditions in Shan State compelled an exodus to Thailand, with estimates that approximately 10,000 Shan may have relocated there during the year (see Section 1.f.). Rohingya Muslims who have returned to Rakhine State were not stigmatized for having left Burma, but were discriminated against for being Rohingya. Returnees claimed that they faced restrictions on their ability to travel and to engage in economic activity.

There were no reports that persons formally sought asylum in the country during the year. There were no reports of forced repatriation.

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

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

Since 1962, active duty military officers have occupied the most important positions in both the central Government and in local governments. All members of the SPDC have been military officers on active duty, and the SPDC has placed military or retired military officers in most key senior-level positions in all ministries. At year's end, active duty or retired military officers occupied 34 out of 36 ministerial-level positions.

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

In September 1998, because the SPDC refused to allow the entire Parliament to convene, the NLD leadership organized the CRPP on the basis of written delegations of authority from a majority of the surviving M.P.s-Elect of the 1990 Parliament. The CRPP acts on behalf of the Parliament until the Parliament is convened. In retaliation the Government launched a sustained and systematic campaign to destroy the NLD without formally banning it; the authorities pressured many thousands of NLD members and local officials to resign and closed party offices throughout the country. Military intelligence officials also detained more than 200 M.P.s-Elect in 1998. At year's end, a total of 38 M.P.s-Elect remained in prison; Sein Hla Oo, Dr Zaw Myint Maung, Ohn Kyaing, Khin Maung Swe, and Dr. Myint Naing, have been in prison since the early 1990s.

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

Late in 2000, with encouragement from the U.N. Special Envoy Razali Ismail, the Government initiated talks with Aung San Suu Kyi that produced some relaxation in the restrictions on the NLD. In subsequent years, the NLD was able to resume some political party activities. The May 30 attack on the NLD marked a severe setback for the process, and the Government still had not opened a substantive dialogue with the NLD and continued to hold more than 1,300 political prisoners at year's end.

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

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

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

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

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

There were approximately 35 nonpolitical, international humanitarian NGOs working in the country. A few others have established a provisional presence while undertaking the protracted negotiations necessary to establish permanent operations in the country. Beginning in 2001, international NGOs sometimes were required to have a ministry representative accompany them on field visits, at the NGOs' expense (see Section 1.f.).

The Government permitted the UNSRHR, Paulo Sergio Pinheiro, to visit the country twice during the year. He decided to cut short his first visit when he discovered an electronic listening device installed in a government-controlled room where he was interviewing a political prisoner. In his reports, Pinheiro cited "significant setbacks" in the human rights situation and the lack of progress in the dialogue process between the Government and the democratic opposition. Pinheiro registered grave concern about the alleged death, bodily harm, detention, and disappearance of scores of individuals as a result of the May 30 attack. Pinheiro noted the attack took place against the backdrop of arrests and continuing imprisonment of other political activists since the beginning of the year. He also noted that the Government declined to give assurances for an independent assessment of alleged serious human rights abuses in ethnic regions (see Section 1.c.).

In 2001, the Government announced the creation of a Human Rights Committee, chaired by the Minister of Home Affairs and including the Chief of Police as one of the members. During the year, the UNHCR conducted refugee law and human rights seminars. The Australian Government suspended its human rights training program after the May 30 attack. The Government received ILO complaints of labor violations and stated that it was conducting investigations into the violations.

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

The SPDC continued to rule by decree and, due to the abrogation of the Constitution, was not bound by any constitutional provisions concerning discrimination. In 2002, Government border officials had for a 2-month period administered involuntary HIV/AIDS tests to repatriating citizens. Those who tested positive were forced first into a hospital and then into a detention center. The Foreign Minister reported this situation to the Ministry of Health as discrimination and the Health Ministry ended the practice. HIV-positive patients were discriminated against, as were the doctors who treated them. The Government worked to address this issue and has drafted a protocol for Voluntary Confidential Counseling and Testing for HIV/AIDS that is intended to provide protection for the right to privacy. It was not promulgated by year's end.

Women.—Domestic violence against women, including spousal abuse, in Rangoon and Mandalay was a significant problem and was increasing, according to credible reports. The problem was difficult to measure in rural areas. The Government did not release statistics regarding spousal abuse or domestic violence. Married couples often lived in households with extended families, where social pressure tended to protect the wife from abuse.

Rape is illegal; however, spousal rape is not a crime unless the wife is under 12 years of age. The Government stated that rape was not common in populous urban areas but occurred more often in remote areas. The Government did not release statistics regarding rape. It was generally unsafe for women to travel during hours of darkness without a male escort. Employers who employed women at night typically had to supply a "ferry" bus or truck to return workers to their homes. Use of taxis at night was particularly hazardous for women of the risk of rape or robbery. Prostitutes traveling at night must typically pay substantial additional fees to taxi operators or risk being raped, robbed, or turned over to the police. There are reports that prostitutes taken into police custody were sometimes raped or robbed by the police.

Prostitution is prohibited by law and punishable by 3 years in prison; however, it was growing in prevalence, particularly in some of Rangoon's "border towns" and "new towns," which were populated chiefly by poor families that were relocated forcibly from older areas of the capital. There were credible reports that a large number of female prostitutes were imprisoned and often subjected to abuse while incarcerated. There were no laws against sexual harassment.

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

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

Children.—The Government continued to allocate minimal resources to public education. Public schooling was provided through the 10th standard (equivalent to the U.S. 12th grade), but families bore a major portion of financial costs. Education is compulsory through the end of the 4th standard. There was no difference in attendance rate of boys and girls. The Government encouraged Buddhist monastic schools in rural areas. According to the latest available statistics, during the year, official expenditures for all civilian education were equivalent to less than 1 percent of gross domestic product (GDP) and have declined by more than 70 percent in real terms since 1990. In 2001, UNICEF reported that 69 percent of primary school students completed the 4th standard; however, according to official studies conducted with U.N. assistance, only 37 percent of children finished 4th standard in urban areas and only 22 percent did so in rural areas. Rates of school attendance and educational attainment decreased during the year, largely due to rising formal and informal school fees as the Government diverted expenditures from health and education to the armed forces. On average, teacher's pay was equal only to approximately \$7 (7,000 kyats) per month, far below subsistence wages, forcing many teachers to leave the profession. Only relatively prosperous families were able to afford to send their children to school, even at the primary level. In ethnic minority areas, the Government often banned teaching in local languages. In some areas where few families were able to afford unofficial payments to them, teachers generally no longer came to work and schools no longer functioned. In response to official neglect, private institutions began to provide assistance in education, despite an official monopoly on education.

Children also suffered greatly from the Government's severe and worsening neglect of health care. The Government cut official expenditures on public health care even more sharply than it cut spending for education. Government expenditures for civilian health care in 1998–99 were equivalent to only 0.3 percent of GDP. In 2001, official studies sponsored by U.N. agencies found that, on average, 109 of 1,000 children died before reaching the age of 5 years, and that only 1 out of 20 births in rural areas was attended by a doctor. A joint Ministry of Labor and United Nations Populations Fund (UNFPA) study in 2001 indicated that, among children under 5 years of age, 7.9 percent were severely malnourished. A joint Ministry of Health and UNICEF report in 2000 indicated that on a national level 35.3 percent of children under 5 are moderately to severely underweight, 33.9 percent are moderately to severely underdeveloped, and 9.4 percent are moderately to severely emaciated. The World Health Organization considered the country's health care system to be extremely poor.

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

Child prostitution and trafficking in girls for the purpose of prostitution—especially Shan girls who were sent or lured to Thailand—continued to be a major problem (see Section 6.f.). In Rangoon and Mandalay, diplomatic representatives noted widespread employment of female prostitutes who appeared to be in their early teens and for whom there was reportedly a high demand. Additionally, some broth-

els offered young teenage “virgins” to their customers for a substantial additional fee.

The official age of enlistment in the ostensibly all-volunteer army is 18 years. Unlike in previous years, there were no reports that the authorities rounded up orphans and street children in Rangoon and other cities and forced them into military service. During the year, diplomatic representatives received a new report that in October 2002 an M.P.-Elect from Karen State filed a report to the police that a 15-year-old boy was missing minutes after arriving in Rangoon railway station. The Rangoon police suggested looking for him at the Hmawby army recruit camp near Rangoon, where the M.P.-Elect found three sets of parents also looking for their children. Six boys were brought forward and the M.P.-Elect was able to identify and retrieve the boy. In October, diplomats received a credible report that there were several thousand child soldiers in the Burmese Army (see Section 6.d.).

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

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

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

Since only persons who were able to prove long familial links to the country were accorded full citizenship, native-born but non-indigenous ethnic populations (such as Chinese, Indians, and Rohingya Muslims) were denied full citizenship and were excluded from government positions. Members of the Rohingya Muslim minority in Rakhine State, continued to experience severe legal, economic, and social discrimination. The Government denied citizenship status to most Rohingyas on the grounds that their ancestors did not reside in the country at the start of British colonial rule in 1824, as required by the country’s highly restrictive citizenship law.

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

Forced labor of Muslims continued to be widespread in Rakhine State. Forced labor of minority ethnic groups was still prevalent in eastern border areas (see Section 6.c.).

Persons without full citizenship faced restrictions in domestic travel (see Section 2.d.). They also were barred from certain advanced university programs in medicine and technological fields.

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

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

Section 6. Worker Rights

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

In June 2001, the Committee on the Application of Convention and Recommendations of the International Labor Conference once again expressed profound regret regarding the persistence of serious discrepancies between the law and practice with respect to freedom of association. The committee criticized the Government for not implementing the provisions of ILO Convention 87 on Freedom of Association and Protection of the Right to Organize, which the Government ratified in 1955.

The International Confederation of Free Trade Unions (ICFTU) reported that in August 2002 army troops killed an official of the Free Trade Union of Burma (the Kawthoolei Education Workers Union). The Burmese Army forced Mya Than, a village headman who was widely known for his trade union activities, to porter for the army, and then killed him in retaliation for an attack by opposition forces. The Government officially responded to this report by stating that Saw May Than was killed by an anti-personnel mine while portering for the Burmese Army.

The ILO reported that because unions are banned, there were no internationally affiliated unions. The Government forbade seafarers who found work on foreign vessels through the Seafarers Employment Control Division from contacts with the International Transport Workers' Federation and the Government often refused to document seafarers who were stranded abroad. This documentation gives permission to work abroad. Lack of documentation meant the worker must return home.

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

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

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

There are no export processing zones. However, there were special military-owned industrial parks, such as Pyin-Ma-Bin, near Rangoon, which attracted foreign investors, and the 2,000-acre Hlaingthaya Industrial Zone in Rangoon where at least four companies were known to operate on its premises.

c. Prohibition of Forced or Bonded Labor.—Forced or bonded labor remained a widespread and serious problem. Although the Penal Code provides for the punishment of persons who imposed forced labor on others, there were no known cases of the application of this provision. Throughout the country, international observers verified that the Government routinely forced citizens to work on construction and maintenance projects. Citizens were also forced to work in the military-owned industrial zones. The law does not specifically prohibit forced and bonded labor by children, and forced labor by children continued to be a serious problem (see Section 6.d.).

The ICFTU reported that on a daily basis, the Government forced hundreds of thousands of men, women, children, and even the elderly to work against their will, generally without payment. Work ranged from road and railway construction and repair to serving as military porters to farming fields confiscated by the military. Military porters could be starved, beaten, or killed if they fell behind or tried to escape.

In March, the Burma-based ILO Liaison Officer reported that the Government's order to end forced labor, issued after the 2001 ILO High-Level Team visit, had been widely if unevenly disseminated; however, the impact on reducing forced labor was limited and unsustainable. The Government's use of forced labor remained particularly serious in regions with a large military presence, especially in the eastern border areas and northern Rakhine State. The ILO also reported that it appears the Government was more often making payment for forced contributions, but the pay-

ments were usually well below prevailing wage rates. Diplomatic representatives did not receive any reports of the Government paying for forced contributions.

Over the past 5 years, the ILO and other international agencies have not seen a decrease in the Government's use of forced labor but have seen changes in the Government's approach to conscripting forced labor. The ILO reported that military units tended to no longer issue written orders to village heads to provide forced labor, and instead gave these instructions verbally. The ILO also reported that in some cases the Government apparently substituted its demands for forced labor with demands for forced contributions of materials, provisions, or money. Throughout the year there were frequent and widespread reports from NGOs and ethnic groups of Burmese Army soldiers forcing contributions from ethnic minority villagers in conflict areas. The ILO reports that since 2002, the Government increasingly substituted prisoners for civilians as forced laborers, a result of international pressure to not use civilians. During the year, the military continued to take prisoners from jails in Shan State for use as porters. In October, during its offensive against the KNU, the Burmese Army reportedly used over 300 prisoners as porters. After the May 30 attack on the NLD, a draft agreement with the ILO to establish a facilitator to help forced-labor victims seek remedies under Burmese law was postponed.

Authorities often allowed households or persons to substitute money or food for labor for infrastructure projects, but widespread rural poverty forced most households to contribute labor. Parents routinely called upon children to help fulfill their households' forced labor obligations (see Section 6.d.).

During the year, diplomatic officials did not receive reports of forced labor for building civil infrastructure in central Burma. Forced labor has lessened considerably in the ethnically Burman central regions mainly because many infrastructure projects such as bridges and roads were completed. However, forced labor has been substituted by forced contributions in cash or in kind. For example, if a household or a community cannot provide workers for farming military land or attending militia training, each household and/or community must pay for their replacements. Smaller scale forced labor still exists. On September 5, the local chairman of Chaungnet Village in Magwe Division forced one person from each household to clear the bushes on Rangoon-Magwe Highway. Those who refused were fined \$5 (5,000 kyat).

In June, Earth Rights International reported that villagers stated that forced labor in their area was coordinated at an institutional level by the military. Every village head in a sample district of rural eastern Burma was required to attend a weekend meeting to receive the latest demands from the army for forced labor. Forced labor was never adequately compensated and refusal to work only invited punishment. Complaining about forced labor was dangerous and according to village heads could result in retaliation.

In mid-year, the Government began a new forced labor program, compelling many civil servants and one person from each family to attend an unpaid 45-day militia-training program. The SPDC forced each trainee to pay \$5 (5,000 kyat) for a uniform and a bamboo weapon. The Government required a forced contribution of \$5 (5,000 kyat) from families unable to send a person to the militia training. According to reports, the Government compensated trainees with food and, in rare cases, a token per diem payment.

The KNU released credible but unconfirmed reports of widespread use of forced labor in conflict areas along Burma's eastern border. On July 10, soldiers forcibly recruited 500 porters in Mone Township to carry food supplies for the army. Those unable to carry a load had to pay \$5 (5,000 kyat) each. On July 15, soldiers ordered 13 Kaw-thay-doe villagers from Tan-ta-bin Township to cut bamboo and fence the army camp. Also on July 15, soldiers forced six villagers from Kaw-thay-doe village, Tan-ta-bin Township, and three Ga-mu-doe villagers to carry military supplies.

Trafficking of women was a serious problem (see Section 6.f.).

The Government established a committee to implement measures against forced labor and allowed the ILO to open a liaison office in Rangoon and to travel throughout the country. The implementation committee, however, has not identified or prosecuted any instances of forced labor. The committee did not implement adequate mechanisms for the reporting, investigation, and prosecution of incidents of forced labor.

Forced recruitment of soldiers was widespread. Diplomatic representatives learned that the Government would not allow soldiers to leave the army at the end of their enlistment without first recruiting three or four replacements, even if it required forced recruitment. Forced recruitment for the police forces followed the same pattern.

Civil service pay is negligible. For example, medical doctors earn \$10 (10,000 kyat) a month. Civil servants are not allowed to retire at will or terminate employment to leave for other sectors.

d. Status of Child Labor Practices and Minimum Age for Employment.—Although the law sets a minimum age of 13 for the employment of children, in practice the law was not enforced. Child labor has become increasingly prevalent and visible. Working children were highly visible in cities, mostly working for small or family enterprises. In the countryside, children worked in family agricultural activities. Children working in the urban informal sector in Rangoon and Mandalay often began work at young ages. In the urban informal sector, child workers were found mostly in food processing, street vending, refuse collecting, light manufacturing, and as tea shop attendants. According to 2002 official statistics, 6 percent of urban children worked, but only 4 percent of working children earned wages; many were employed in family enterprises.

The law does not specifically prohibit bonded labor by children; while there are no reports of bonded labor, children were subjected to forced labor. The authorities reportedly rounded up teenage children in Rangoon and Mandalay and forced them into portering or military service (see Section 5). In June, the ICFTU reported that the Government most often recruited children when adults were not available in sufficient numbers. In rural areas, if the father in a family was either away or had been killed, then the mother had to send a child to respond to a government order for a forced labor contribution. The Government has not ratified ILO Convention 182 on the worst forms of child labor.

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

e. Acceptable Conditions of Work.—Only government employees and employees of a few traditional industries were covered by minimum wage provisions. The minimum daily wage for salaried public employees was \$0.10 (100 kyats) for what was in effect an 8-hour workday. Various subsidies and allowances supplemented this sum. Neither the minimum wage nor the higher wages earned even by senior officials provided a worker and family with a decent standard of living. Low and falling real wages in the public sector have fostered widespread corruption and absenteeism. In the private sector, urban laborers earned approximately \$0.80 (800 kyat) per day, while rural agricultural workers earned approximately half that rate. Some private sector workers earned substantially more; a skilled factory worker earned approximately \$4 (4,000 kyat) per day.

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

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

f. Trafficking in Persons.—Trafficking in women and children was a serious problem. There reportedly was widespread complicity among local government officials in trafficking in persons. There were no known arrests or prosecutions of complicit officials.

The law does not prohibit trafficking in persons and there were reports that persons were trafficked from and within the country. There are laws that are used against traffickers such as the Penal Code, which prohibits kidnapping, the Suppression of Prostitution Act and the Child Law, which include provisions against the sale, abuse, or exploitation of children. According to the Government, traffickers received sentences of between 3 and 14 years for trafficking in persons in 2002. According to government figures, investigations resulted in jail sentences being handed out in approximately 90 cases. The Government issued a report that through June it uncovered 223 cases of trafficking in humans, arrested 417, sentenced 83 human traffickers, and gave educational talks to 82,251 people on trafficking. In two 2002 reports the Government highlighted the prevention, repatriation, and prosecution

actions taken under a newly formed Working Committee for the Prevention of Trafficking in Persons, chaired by the Minister of Home Affairs.

Officials recognized the need for continuing engagement on preventing trafficking and the prosecution of traffickers. Although the Government was active on these fronts, its effectiveness was unclear by year's end. The Government expanded cooperation with international and local NGOs and began to show interest in cooperating with authorities in Thailand to combat trafficking in persons; however, the Government did not take any official action to cooperate with neighboring countries.

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

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

In recent years, the Government has made it difficult for single females to obtain passports or marry foreigners ostensibly in order to reduce the outflow of women as victims of trafficking (see Sections 1.f. and 2.d.). In addition, there are regulations forbidding girls under the age of 25 from crossing the border unless accompanied by a guardian. However, most citizens who were forced or lured into prostitution crossed the border into Thailand without passports.

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

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

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

CAMBODIA

Cambodia is a constitutional monarchy with an elected government. King Norodom Sihanouk is the constitutional monarch and head of state. Elections for Members of the National Assembly were held on July 27. The Cambodian People's Party (CPP) won 73 seats in the National Assembly, while the royalist National United Front for a Neutral, Peaceful, Cooperative, and Independent Cambodia (FUNCINPEC) party won 26 seats and the Sam Rainsy Party (SRP) won 24 seats. The CPP and FUNCINPEC formed a nominal coalition government, but the CPP dominates the Government. No party won the two-thirds majority required to form a government. The parties that won National Assembly seats in the election engaged in negotiations to form a new coalition Government, but the parties did not conclude negotiations by year's end. The two parties that won a minority of seats formed an "Alliance of Democrats" in an attempt to win concessions from the majority Cambodian People's Party. The former Government continued to operate in a caretaker status pending the formation of a new government. The Khmer Rouge is no longer a serious internal threat to security, and the Government has good rela-

tions with its neighbors, despite strains over residual border disputes and historic antagonisms. Although the law provides for an independent judiciary, in practice the judiciary was frequently subject to legislative and executive influence and suffered from corruption.

The National Police, an agency of the MOI, has primary responsibility for internal security. In 2001, the National Assembly restricted the authority of military police, permitting them to arrest civilians only when authorized to do so by local governments. While civilian authorities nominally maintained control of the security forces, in practice security forces answered to persons within the CPP leadership. Some members of the security forces committed serious human rights abuses.

The country has a free market economy. Approximately 80 percent of the population of 13 million engaged in subsistence farming. According to official figures, annual per capita gross domestic income in 2002 was \$257; however, this figure did not accurately represent purchasing power, especially in urban areas. Foreign aid was an important component of the country's finances, accounting for at least 50 percent of the Government's budget. In 2002, the economy grew at an estimated real rate of 4.5 percent, and it was expected to grow at 4.8 percent during the year. The country had a thriving garment export industry; however, it has difficulty attracting foreign investment, principally due to corruption and the lack of a viable legal system.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. During the National Assembly elections in July, politically motivated violence, including killings, was significantly lower than in previous elections; however, voter intimidation by local officials in addition to technical problems with the registration process and preparation of voter lists effectively disenfranchised many citizens. Military and police personnel were responsible for both political and nonpolitical killings; however, there was no credible evidence that suggests these killings were officially sanctioned. There were credible reports that some members of the security forces tortured, beat, and otherwise abused persons in custody, often to extract confessions. National and local government officials often lacked the political will and financial resources to act effectively against members of the security forces suspected of human rights abuses. There also were politically motivated killings committed by persons not in the security forces. Democratic institutions, especially the judiciary, remained weak. Politically related crimes rarely were prosecuted. Citizens often appeared without defense counsel and thereby effectively were denied the right to a fair trial. Prison conditions remained harsh, and the Government continued to use arbitrary arrest and prolonged pretrial detention. The Government largely controlled the content of television broadcasts and influenced the content of most radio broadcasts. The authorities regularly interfered with freedom of assembly. Societal discrimination against women remained a problem while domestic violence against women and abuse of children were common. There were frequent land disputes, and the Government and courts did not consistently resolve them in a just manner. Although the number of trade unions grew and became more active, anti-union activity also continued. Bonded and forced child labor continued to be a problem in the informal sector of the economy. Domestic and cross-border trafficking in women and children, including for the purpose of prostitution, was a serious problem.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Allegations of politically motivated killings continued before and after the July National Assembly elections. Non-governmental organizations (NGOs) estimated that there were 33 potentially politically motivated killings; however, it was often difficult to determine whether the motive for these murders was political. For example, on February 6, the Abbot of the Phnom Ettarus Pagoda Sam Bunthoeun was killed. He had actively encouraged monks to register for the National Assembly elections after a pro-CPP Buddhist patriarch had forbidden monks to register to vote. On February 18, two armed men shot Om Radsady, advisor on foreign affairs to National Assembly President Prince Norodom Ranariddh. Although the killing was widely believed to be politically motivated, police subsequently arrested two Royal Cambodia Armed Forces soldiers who confessed they had shot at Om Radsady because they wanted to steal his cell phone. In October, a municipal court sentenced the two soldiers to 20 years in prison. Despite the sentence, the Cambodian Center for Human Rights (CCHR) and other local NGOs doubted the two convicted were the real killers. On August 6, the 16-year-old daughter of an SRP activist was shot and killed by a pro-CPP village chief. The police arrested the village chief, but court officials ordered the victim's family to ac-

cept a monetary payment and a suspended 2-year sentence. The SRP activist subsequently filed a lawsuit with the Appeals Court and moved his family to another location to avoid any reprisal for filing the suit. The case was pending at year's end. On October 18, Chhor Chetharith, reporter for pro-FUNCINPEC Taprohm Radio and FUNCINPEC-affiliated Ministry of Interior (MOI) official, was shot and killed by one of a pair of gunmen in front of the Taprohm radio station. No suspects were arrested by year's end. Taprohm Radio has been critical of the Government, and the killing occurred 4 days after Prime Minister Hun Sen publicly warned FUNCINPEC that leaders of political parties should control their broadcast media. The Alliance of Democrats (FUNCINPEC and SRP parties) claimed this murder was a political killing (see Section 2.a.).

In 2002, the country held its first local elections. The U.N. High Commissioner for Human Rights (UNHCHR) reported that prior to the elections, 22 political activists (5 in 2000, 12 in 2001, and 5 in 2002), including candidates and family members, were killed in 20 separate incidents under suspicious circumstances. Human rights monitoring groups agreed that at least seven of these cases were politically motivated. UNHCHR reported that there were serious shortcomings in the police investigations of these killings.

During the year, NGOs reported that members of the military, military police, and civilian police forces were implicated in 25 cases of extrajudicial killings. In addition, anti-riot police shot a union striker during a dispute in June; a policeman was killed in the same incident (see Section 6.b.). During the year, there were continued allegations of beatings of prisoners in police custody. In 2002, three police officers were charged with voluntary manslaughter for the 2001 beating to death of a prisoner in Prey Veng Province. The three officers were suspended from their jobs and the MOI authorized the provincial court to charge them with torture; however, the suspects had not been prosecuted at year's end.

The number of landmine casualties has not declined since 2000, despite actions taken by the Government and international organizations. Between January and June, there were 429 landmine casualties. There were 841 landmine casualties in 2002 and 813 in 2001.

During the year, there were several high-profile killings by unknown actors. For example, on April 22, Judge Sok Sethamony of the Phnom Penh Municipal Court was shot and killed in his car on his way to work. Perpetrators on a motorbike fired five shots at the judge while he was stopped at a traffic light. Judge Sethamony had presided over the 2002 trials of the Cambodian Freedom Fighters (CFF) and was scheduled to preside over the trial of those accused of participating in the January anti-Thai riots (see Section 2.b.). There was much speculation on the motive for his assassination. Military police subsequently arrested three suspects who police claimed had links to the CFF. The suspects were in prison awaiting trial at year's end.

On October 27, the Appeals Court held a new trial of Chhouk Rin, a former Khmer Rouge commander, for his role in a 1994 train ambush that resulted in the deaths of 3 foreigners and at least 13 citizens. In the November 5 verdict, the Appeals Court upheld the previous Appeals Court conviction in September 2002, which had reversed a Phnom Penh Municipal Court acquittal in 2000, and sentenced him to life imprisonment. Chhouk Rin's lawyer filed an appeal to the Supreme Court. Since Chhouk Rin was originally acquitted by the Phnom Penh Municipal Court, the law stipulates that Chhouk Rin may not be incarcerated until the Supreme Court has found Chhouk Rin guilty and the Appeals Court has confirmed the Supreme Court's ruling in an additional final ruling.

There were no developments in the appeals of the 2002 convictions of numerous CFF members at year's end.

Vigilante justice, as well as killings of alleged witches and sorcerers, continued during the year. In 2002, the UNHCHR issued a report that documented 65 cases of mob assaults and killings from mid-1999 through May 2002. Local NGOs reported that mobs conducting vigilante justice killed at least eight people between February and December. Government prosecutions of those responsible for mob violence were rare. During the year, there were eight reports of persons being killed because they had allegedly used magic power to cast bad fortune on others. In some of these cases, political killings may have been explained away as revenge killings for sorcery. On June 30, an unknown assailant shot a pro-CPP activist. Police reported that it was likely that he was killed for allegedly practicing sorcery. On July 22, three pro-CPP siblings killed three FUNCINPEC activists. The suspects admitted their guilt and stated that they killed the three FUNCINPEC activists not for political reasons but because the activists had cast a spell on their mother.

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 physical abuse of prisoners; however, torture, beatings, and other forms of physical mistreatment of persons held in police or military custody continued to be a serious problem throughout the country. During the year, there were 17 credible reports of military police and police officials using physical and psychological torture and severely beating criminal detainees, particularly during interrogation. During the year, a local NGO reported that in interviews with prisoners in 18 prisons, 139 prisoners claimed to have been tortured, 83 percent of this group while in police custody and 17 percent while in prison. In 2002, NGOs reported that 8 percent of 4,567 inmates claimed they had been tortured. Members of the police and security force who carried out torture and abuse often were protected from prosecution or disciplinary action by local government authorities, despite some central Government efforts to curtail or eliminate violations of prisoners' rights and to address problems of accountability. In 2002, three police officers were charged with voluntary manslaughter for the 2001 beating to death of a prisoner in Prey Veng Province. The three officers were suspended from their jobs and the MOI authorized the provincial court to charge them with torture; however, the suspects had not been prosecuted at year's end.

The MOI's Prisons Department is responsible for both pretrial detainees and convicted prisoners held inside prisons. During the year, prison conditions remained harsh, and government efforts to improve them and to implement new regulations were hampered by lack of funds and weak enforcement. Human rights organizations cited a number of serious problems, including overcrowding, health problems, food and water shortages, malnutrition, and poor security. During the year, a local NGO, which monitored 17 of the country's 25 prisons, noted that the population of those prisons had increased and that all 17 prisons were overcrowded. In August, the Kompong Thom prison, with a capacity to hold 40 prisoners, had 116 prisoners. In most prisons, there was no separation of adult prisoners and juveniles, of male and female prisoners, or of persons convicted of serious crimes and persons detained for minor offenses. In some prisons, after escape attempts, use of shackles and the practice of holding prisoners in small, dark cells continued. Government ration allowances for purchasing prisoners' food routinely were misappropriated and remained inadequate, which exacerbated malnutrition. Regulations permitted families to provide prisoners with food and other necessities, and prisoners depended on such outside assistance; however, families often were compelled to bribe prison officials in order to be allowed to provide assistance.

The Government continued to allow international and domestic human rights groups to visit prisons and prisoners and to provide human rights training to prison guards. However, NGOs reported that on occasion cooperation from local authorities was limited. The MOI continued to require lawyers, human rights monitors, and other visitors to obtain letters of permission from the Ministry prior to visiting prisoners. The Ministry withheld such permission in some cases. NGOs were not allowed to interview prisoners privately without prison official supervision.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention; however, the Government generally did not respect these prohibitions. During the year, a number of persons were arrested without warrants, and human rights' groups reported 49 cases of persons illegally detained by police.

The law allows the police to take an individual into custody and conduct an investigation for 48 hours before charges must be filed against the individual. Accused persons are legally entitled to a lawyer; however, prisoners routinely were held for several days before gaining access to a lawyer or family members. Authorities often held suspects for extended periods before charging them, trying them, or releasing them. The investigating judge has the responsibility to gather evidence to support the police charges before determining whether to try a case. One NGO reported that during the year there were 124 complaints of pretrial detention that lasted longer than the prescribed 6 months. Many prisoners, particularly those without legal representation, often had no opportunity to seek release on bail. According to the UNHCHR, such prolonged detention largely was a result of a growing prison population and the limited capacity of the court system.

A 2002 sub-decree established the General Commissariat of the National Police, which replaced the former General Secretariat of the National Police. The General Commissariat is under the supervision of the MOI and takes responsibility for managing all civilian police units. The police forces are divided into those who have the authority to make arrests, those who do not, and the judicial police. During the year, there were reports of police receiving protection money from illegal businesses and suspects being released due to police corruption. These problems facilitated a climate of impunity for some criminals.

During 2001, the Government initiated a crackdown on the CFF and arrested over 100 suspects, including dozens without arrest warrants. The Government held some suspects incommunicado and denied them appropriate access to lawyers. Subsequently, many were tried and convicted on the basis of flimsy evidence such as the appearance of their name on a CFF membership list.

The Constitution prohibits forced exile, and in practice, the Government did not employ it. In August 2002, one FUNCINPEC member resigned his seat in Parliament and claimed to be in self-imposed exile after certain government officials threatened to arrest him for his involvement in an association advocating the creation, by force if necessary, of an autonomous ethnic Khmer State in Vietnam.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the Government did not respect this provision in practice. The courts were subject to influence and interference by the executive branch, and there was widespread corruption among judges.

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

Trials are public. Defendants have the right to be present and consult with an attorney, confront and question witnesses against them, and present witnesses and evidence on their own behalf; however, trials typically were perfunctory, and extensive cross-examination usually did not take place.

A lack of resources, low salaries, and poor training contributed to a high level of corruption and inefficiency in the judicial branch, and in practice, the Government did not ensure due process. Judges and prosecutors often had little legal training. UNHCHR has on a number of occasions printed and provided copies of all of the country's laws to all judges. During the year, the Royal School for Judges and Prosecutors reopened and accepted its first class of students since the 1960s. Since 1998, the introduction of newly trained lawyers, many of whom received supplemental training from NGOs, resulted in significant improvements for those defendants provided with counsel, including a reduced pretrial detention period and improved access to bail; however, there remained a critical shortage of trained lawyers in all parts of the country. Persons without the means to secure defense counsel often effectively were denied the right to a fair trial.

Sworn, written statements from witnesses and the accused usually constituted the only evidence presented at trials. Statements by the accused sometimes were coerced through beatings or threats from investigation officials, and illiterate defendants often were not informed of the content of written confessions that they were forced to sign. In cases involving military personnel, military officers often exerted pressure on judges to have the defendants released without trial.

Defendants are entitled by law to the presumption of innocence and to the right of appeal; however, because of pervasive corruption, defendants often were expected to bribe the judge for a favorable verdict. Citizens' rights to appeal sometimes were limited by the lack of transportation and other logistical difficulties in transferring prisoners from provincial prisons to the appeals court in Phnom Penh. Many appeals thus were heard in the absence of the defendant.

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

The Judicial Reform Council made no significant progress in fulfilling its mandate to develop and implement judicial reform measures. In 2002, the Government established a second legal and judicial reform council amid criticisms that the Judicial Reform Council's co-chairs, a Cabinet Minister and the Supreme Court President, lacked sufficient independence. In May, the Council for Legal and Judicial Reforms produced a draft Justice Sector Program and held workshops with civil society, donors, and other interested parties. The Council planned to cooperate with donors to implement the Justice Sector Program. The Supreme Council of the Magistracy did not discipline judicial officials for misconduct during the year. In 2002, some judges were suspended temporarily for alleged improper behavior, but after a perfunctory investigation, were sent back to their jobs and some were promoted. Legal observers charged that the Supreme Council of the Magistracy was subject to political influence and did not protect effectively the independence of the judiciary.

A 2002 sub-decree passed by the Council of Ministers was implemented in January, raising court official's salary from \$20 per month to between \$330 and \$640 per month in an attempt to reduce instances of misconduct and corruption.

Human rights groups continued to report that the Government demonstrated its control of the courts by ordering the rearrest of suspects released by the courts or through extrajudicial processes. In 2002, the Prime Minister allegedly ordered a government official with key responsibilities in ongoing judicial reform efforts to drop inappropriate criminal charges against his former foreign business partner in a civil dispute involving allegations of breach of contract.

Lawyers also noted that since 2001 some police and prison officials, with apparent support from government officials, have denied them the right to meet prisoners in private or for adequate lengths of time, in violation of the law. After the January 29 anti-Thai riots, family members and human rights groups noted that they did not have access to the 57 individuals detained by the Government while the investigation was underway. On May 19, opposition leader, Sam Rainsy, was denied access to a jailed party activist by prison authorities who insisted on receiving MOI authorization for the visit, even though Rainsy had authorization from municipal court officials. In 2001, an executive decree appointed a single individual as the country's sole notary public and, by extension, legal arbiter of everything from documents to land disputes.

There is a separate military court system. The military court system suffered from deficiencies similar to those of the civilian court system. Moreover, the legal distinction between the military and civil courts sometimes was ignored in practice. In 2002, several civilians arrested for crimes that appeared to have no connection with military offenses were detained for trial by the military court; however, it handed the civilians over to a civil court.

In 2001, a law was promulgated to establish Extraordinary Chambers to bring Khmer Rouge leaders to justice for genocide, crimes against humanity, and war crimes committed from 1975 through 1979. The Government had sought assistance and cooperation from the U.N. since 1997, as well as financial assistance from foreign donors, to make the tribunal operational. On May 13, the U.N. General Assembly passed a resolution approving a draft agreement between the U.N. and the Government for prosecution of crimes during the Democratic Kampuchea period.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The Constitution provides for the privacy of residences and correspondence and prohibits illegal searches; however, the police routinely conducted searches and seizures without warrants. There were no reports that the Government monitored private electronic communications.

Since the forced collectivization during Khmer Rouge rule and the return of thousands of refugees, land ownership often has been unclear, and most landowners lacked adequate formal documentation of ownership. Following the end of the Khmer Rouge insurgency, a rush to gain possession of lands near potentially lucrative cross-border trade routes exacerbated the ownership problem. In 2002, the Ministry of Land Management, Urban Planning, and Construction established a Cadastral Commission, which has responsibility for settling disputes over land that has not been registered nor given a land certificate. The Commission performed its functions slowly due to a lack of finances, training, and experience. The courts under the Ministry of Justice remained responsible for resolving disputes in cases where land had been registered or disputants had been given land titles.

In 2001, the Government passed a land law which protects land ownership and deeds of farmers, but the law has not yet been implemented because the Ministry of Land Management, Urban Planning, and Construction has not issued the necessary implementing regulations. Problems of inhabitants being forced to relocate to other land sometimes occurred when powerful officials or businessmen colluded with local authorities to remove the inhabitants from the land. The NGO Legal Aid of Cambodia reported that between October 2002 and June 30, there were 87 individual and collective land disputes of this nature. Some of those expelled successfully contested these actions in court but the majority lost their cases, possibly due to corruption in the court system. At year's end, a number of appeals were pending in the Appeals Court or Supreme Court. One case pending was filed by 517 families against the Deputy Governor of Kampong Cham Province who expelled them from approximately 12,000 acres of farmland. In Banteay Meanchey Province, 46 families filed suit against a military commander over approximately 270 acres of land, and in Kampong Chhnang Province, 59 families sued the District Governor over approximately 200 acres of land.

On July 31, the Appeals Court overruled a March 2002 Ratanakiri provincial court ruling in favor of a general who claimed to hold the titles to approximately

3,000 acres of land that members of the ethnic hill tribes claimed belonged to them. NGOs reported that the Appeals Court made the decision following an intervention by the Government upon the King's request, in which the Government purchased the land from the general to award it to the hill tribes.

Between January 1999 and September 2002, Phnom Penh Municipality conducted 19 community development relocations that affected 8,091 families, and persons affected included those living near the railroad station; along public roads, riverbanks, and drainage systems; and on public property. During the year, there were no additional relocations.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there continued to be some problems. The Constitution implicitly limits free speech by requiring that it does not affect adversely public security. The Constitution also declares that the King is “inviolable.”

The Press Law provides journalists with a number of rights, including a prohibition on prepublication censorship and protection from imprisonment for expressing opinions. However, the Press Law also includes a vaguely worded prohibition on publishing articles that affect national security and political stability. The press published a large number of news items critical of the Government, which included frequent, highly personal criticism of the Prime Minister, the President of the National Assembly, and other senior officials.

Although limited in circulation, newspapers provided a primary source of news and expression of political opinion. All major political parties had reasonable and regular access to the print media. In general, newspapers were aligned politically. Although the press law does not specifically permit newspapers to receive financial support from political parties, some did receive such support from officials of the CPP, FUNCINPEC, and SRP. There were an estimated 20 Khmer language newspapers published regularly, a slight increase from 2002. Of these, 13 were considered to be pro-government, 2 were considered to support the opposition SRP, and 5 were considered to support the FUNCINPEC Party. In addition, there was one French-language daily, one English-language daily, and two other English newspapers published regularly. In August, the Ministry of Information allowed the first Vietnamese-language newspaper to begin operations. Although the three largest circulation newspapers were considered pro-government, most newspapers criticized the Government frequently, particularly with respect to corruption. Prime Minister Hun Sen and National Assembly President Prince Norodom Ranariddh frequently came under strong attack by opposition newspapers.

The Government, the military forces, and the ruling political party continued to dominate the broadcast media and to influence the content of broadcasts. According to a 2001 report by the UNHCHR, the procedures for licensing and allocation of radio and television frequencies to the media were not impartial. The SRP has consistently been unable to obtain a broadcast license. During 2001, it briefly broadcast radio programs from a site in a neighboring country, but subsequently suspended broadcasts for technical reasons.

There were seven television stations, all controlled or strongly influenced by the CPP. Government control severely limited the content of television and radio broadcasting. At the initiative of the President of the National Assembly, the Ministry of Information-controlled national television and radio stations broadcast taped sessions of the National Assembly's debates; however, in several instances, these broadcasts were censored. National radio and television stations regularly broadcast some human rights, social action, public health, and civil society programming produced by domestic NGOs.

There were reports of harassment of persons working for the print and broadcast media. Shortly after the January 29 anti-Thai riots, both the owner of independent radio station Beehive/FM 105, and the editor-in-chief of the Khmer Newspaper Rasmei Angkor were arrested and charged with broadcasting and printing false information (see Section 2.b.). They were released on bail after being detained 2 weeks, and the legal period for investigation ended without their being charged in the courts. In March, a circulation manager of a local Khmer newspaper Cheat (Nation) was briefly detained and assaulted in the office of the Notary Public before being handed over to police on charges of defamation and extortion. The police detained him briefly, but there was no court investigation or trial. Also in March, the editors of three local newspapers Referendum News, New Light, and Peaceful Country, were released from the provincial jail of Banteay Meanchey after the court dropped extortion charges. The three had been arrested in February on charges of extorting \$2,000 from a provincial official. Prior to the elections in July, at least

three local newspapers supporting FUNCINPEC reported receiving telephone threats for printing articles that were critical of CPP and government officials. On October 18, Chuor Chetharith, reporter for pro-FUNCINPEC Taprohms Radio and former FUNCINPEC aide, was killed by one of a pair of gunmen in front of the Taprohms radio station. No suspects were arrested in this case by year's end (see Section 1.a.).

In addition, there were several high profile cases of government interference with freedom of the media during the year. In February, shortly after the anti-Thai riots, the Ministry of Information ordered all local television stations to remove all Thai product advertisements, television programs, and films. The ban was lifted in March. Also in February, the Ministry of Information refused to grant the CCHR a license to operate a radio station—claiming that Phnom Penh was already too saturated with radio broadcasts and newspapers. In July, the Ministry of Information ordered two FUNCINPEC radio stations in Phnom Penh and Battambang to cease broadcasting; however, they did not and were still in operation at year's end. The Government had claimed the broadcasting frequency of the FUNCINPEC radio in Battambang affected other radio station broadcasts in the province. The Ministry of Information also requested the National Election Committee to stop Taprohms from broadcasting, stating that the station was reporting stories that attacked the Government and ruling party. Srey Nich, a popular singer who recorded a collection of songs with political content for FUNCINPEC to be played on Taprohms and Beehive Radio, was shot three times by unidentified gunmen. Srey Nich survived the shooting but was paralyzed; her mother was killed in the incident. This attack was viewed by some as political, while others have alleged personal motives, and no suspects were apprehended at year's end.

Although there is no clear prohibition against the broadcast of foreign-sourced programs on local television and radio channels, in 2002, the Ministry of Information ordered the independent radio station Beehive to remove Voice of America/Radio Free Asia (VOA/RFA) programming from the station. The Ministry claimed the station manager had failed to ask for permission from the Ministry before commencing broadcasts. The exchange between Beehive and the Ministry on whether Beehive could resume broadcasts, including periods of resumed broadcasts and cancelled broadcasts, continued throughout the year. Despite the Ministry's order, Beehive continued broadcasting VOA/RFA programming at year's end.

Several newspapers were charged with libel, not respecting the "inviolability" of the King, and not complying with the National Election Law. In May, the Minister of Information issued a directive reminding all radio and television outlets to stop criticizing each other. The directive came after comments were made in the state press agency attacking officials and leadership of the FUNCINPEC and SRP. In August, the Ministry of Information suspended the opposition newspaper Voice of Khmer Youth from publication for 30 days following an article allegedly criticizing the Royal family; however, the newspaper was allowed to resume publication after only a few days of suspension because the editor wrote a letter of apology to the King.

The media reportedly engaged in some self-censorship during the year. In June, at least six private radio and television stations refused to sell airtime to political parties campaigning for the July 27 elections, a move that critics viewed as a CPP crackdown on opposition parties. Political parties did not have media access to private newspapers or television and radio stations. The National TV of Cambodia was the sole television station to broadcast news of the general elections; however, five private radio stations did sell airtime to political parties to broadcast their political campaigning. Although still inadequate, political parties and candidates' access to the media was greater in these elections than previous elections.

The Government increased restrictions on media access to Government facilities during the year. In April, the National Assembly issued a directive banning journalists from entering its grounds without authorization from the FUNCINPEC Assembly Secretary General. This "security" directive was issued a few hours after the public defection of three FUNCINPEC parliamentarians and four other royalist figures to the opposition SRP. It also followed Phnom Penh governor Kep Chuktema's closure of the traditionally public weekly municipal meetings.

Government authorities removed publications from the public purview during the year. In February, local authorities removed copies of a controversial booklet on the life and death of the famous actress, Piseth Pilika, titled "A True and Horrible Story," which insinuated that Prime Minister Hun Sen's wife had played a role in the actress' death, from all public bookstores and newsstands; however, the booklets were sold at the SRP's headquarters and published at the printing house without government interference. There were no significant developments in the 2001 case

in which the Government threatened to ban and confiscate the book "Light of Justice" published by the SRP.

The Government did not restrict Internet access, which was available widely in larger towns.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of peaceful assembly, but the Government did not respect this right in practice. The Government requires that a permit be obtained in advance of a march or demonstration. The Government routinely failed to issue permits to groups critical of the ruling party. Throughout the year, the Government cited the January 29 anti-Thai riots and public security as the reason for denying permits to assemble, and groups that assembled without a permit were dispersed forcibly by police. Most of these dispersals resulted in minor injuries to some demonstrators, and a June 23 union strike led to the deaths of one policeman and one union worker. In 2002, police dispersed a crowd of approximately 150 villagers who demanded information about proposed forestry concession management plans. One protester later died of a heart attack, but no link between the incident and his death was established; however, human rights groups alleged that electric-shock batons used in the rain to stop the demonstration may have contributed to his death. The Government failed to protect peaceful demonstrators from violence. Demonstrations critical of the Government often faced violent counter-demonstrations by the pro-CPP Pagoda Boys Association and received no Government or police protection.

On January 29, anti-Thai protests in front of the Royal Thai Embassy turned violent, resulting in extensive damage to the Embassy and Thai-owned businesses. After the riots, police conducted protest suppression exercises in the suburbs of Phnom Penh. The Commissioner General of the National Police stressed on several occasions the preparedness of police forces to suppress any violent demonstrations aimed at protesting the results of the National Assembly elections; however, during the campaign period itself, supporters of both the ruling and opposition parties took part in rallies and street parades throughout the country. Campaign activities took place in most provinces of Cambodia without serious violence. On August 7, the National Election Committee's (NEC) Trial Council imposed fines of \$1,250 on each of two pro-CPP village chiefs found guilty of breaching NEC rules during the electoral campaign. One village chief had tried to ram and sink FUNCINPEC campaign boats on the Tonle Sap River, and the other village chief had physically assaulted FUNCINPEC members.

The Constitution provides for freedom of association, and the Government generally respected this right in practice; however, the Government did not enforce effectively the freedom of association provisions of the Labor Law (see Section 6.a.).

The Government did not coerce or forbid membership in political organizations. Political parties normally were able to conduct their activities freely and without government interference; however, there were several documented cases of harassment of FUNCINPEC and SRP activists and candidates in connection with preparations for the July National Assembly elections. Human rights organizations reported that some local authorities warned members of certain political parties that if they continued to support those parties they would face a loss of residency rights, confiscation of property, and a ban on using local infrastructure.

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

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution also prohibits discrimination based on religion, and minority religions experienced little or no official discrimination. Buddhism is the state religion, and over 95 percent of the population is Buddhist. Most of the remaining population is made up of ethnic Cham Muslims, who were well integrated into society.

The law requires all religious groups to submit applications to the Ministry of Cults and Religious Affairs in order to construct places of worship and to conduct religious activities. Religious groups did not encounter significant difficulties in obtaining approvals for construction of places of worship, but some Muslim and Christian groups reported delays by some local officials in acknowledging that official permission had been granted to conduct religious meetings in homes. Such religious meetings took place unimpeded despite delay or inaction at the local level, and no significant constraints on religious assembly were reported. In January, the Ministry of Cults and Religions issued a disciplinary order prohibiting public proselytizing; however, there were no reports of enforcement of this order.

There were no major religious conflicts during the year; however, there were two minor incidents. On July 13, a mob of angry villagers severely damaged a local

Christian church, blaming the construction of the church several years earlier for the area's drought. Police authorities went to the area to prevent another attack on the church. In August, a tribal group in Rattanakiri Province demanded that a Christian group stop conducting conversion activities in their villages.

In 2002, former Vietnamese Buddhist Monk Thich Tri Luc, a member of the banned Unified Buddhist Church of Vietnam, was abducted by unidentified individuals from Phnom Penh, where he had obtained refugee status from the United Nations High Commissioner for Refugees (UNHCR). In August, press reports from Vietnam indicated that he was put on trial in Vietnam. In August 2002, the Government deported two Falun Gong members listed as UNHCR persons of concern to China. The UNHCR was not notified in advance, in violation of agreements with the Government. Also in August 2002, the Government announced that it would not permit the Dalai Lama to attend an upcoming Third World Buddhism Conference in the country.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution and law provide for these rights, and the Government generally respected them in practice; however, during the post-National Assembly election period, there were several credible reports of restrictions on travel from the Provinces of Kampong Speu and Kampong Chhnang to Phnom Penh. Authorities detained groups of people en route to Phnom Penh and accused them of traveling to Phnom Penh to engage in demonstrations protesting the election results. In one case, two people in Kampong Chhnang were detained for 2 days by authorities after their family members went job-hunting to Phnom Penh and were only released after they had arranged for the return of their family members.

The Government placed no restrictions on foreign travel. The Government also placed no restrictions on emigration or prohibitions against citizens who have left the country from returning.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, in practice the Government did not respect the law and systematically deported potential Vietnamese and Montagnard refugees as illegal immigrants without reviewing whether they were eligible for refugee status, despite a UNHCR presence in the country. During the year, the military presence along the border with Vietnam was intensified. There were reports that Vietnamese authorities offered incentive awards to Cambodian border police who returned Vietnamese refugees to Vietnam.

Potential refugees who reached the UNHCR office in Phnom Penh without government detection were processed normally, with government cooperation. During the year, 26 Montagnard refugee cases were processed at the UNHCR refugee facilities in Phnom Penh. In August, two Montagnards entered the office of a human rights group in Ratanakiri Province, and the UNHCR worked with the Government to relocate them to the UNHCR office in Phnom Penh for refugee processing. During the year, the UNHCR's Phnom Penh office processed 39 Vietnamese (including Montagnards), 2 Chinese, 2 Ivorians, 2 Sri Lankans, 1 Pakistani, 1 Palestinian, 1 Somali, 4 Liberians, and 1 Burmese.

In 2002, the UNHCR was given permission to establish and monitor camps in Ratanakiri and Mondolkiri Provinces, which border Vietnam's central highlands and are home to the Montagnard ethnic minority. Although the UNHCR reached an agreement with the Government and with the Government of Vietnam to facilitate voluntary repatriation of Montagnards who had crossed into Cambodia, the agreement collapsed, the camps were dismantled, and the remaining refugees were moved to Phnom Penh for resettlement. At year's end, all but 3 of the approximately 900 Montagnard refugees that the Government authorized for resettlement in 2002 have been resettled to the United States.

In 2002, a former Vietnamese monk and a UNHCR-designated refugee disappeared from Phnom Penh and during the year was put on trial in Vietnam (see Section 2.c.). In 2002, the Government also deported to China two Falun Gong members, listed as UNHCR persons of concern (see Section 2.c.).

After opposing repatriation of deportable Cambodian nationals for many years, the Government signed an memorandum of understanding with the United States in March 2002 to facilitate their return; 67 persons had been repatriated from the United States by year's end. In 2002, the 36 persons who were repatriated were detained up to several weeks upon their arrival and some reportedly were forced to pay bribes during this detention period. The Government subsequently respected the rights of these individuals and their efforts to integrate themselves into society.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens generally exercised this right in practice through periodic elections on the basis of universal suffrage. Suffrage is voluntary for all citizens over the age of 18. Most citizens participated in national elections in 1993 and 1998, and the voter turnout for the July 27 National Assembly elections was approximately 83 percent. The CPP won 73 seats in the elections, while FUNCINPEC won 26 seats and the SRP won 24 seats; however, the political parties could not reach the two-thirds majority needed to form a coalition government. At year's end, the former Government continued to operate in a caretaker status pending the formation of a new government.

All election observer groups, including two local NGOs, the Committee for Free and Fair Elections in Cambodia and Neutral and Impartial Committee for Free and Fair Elections in Cambodia; the International Republican Institute; the Fund for Reconciliation and Development; the Government of Japan Election Observation Mission; and the European Union Election Observation Mission; took note of the improvements in the July elections over the previous elections but stated that they fell short of international standards for democratic elections. Politically motivated violence remained a problem; however, it declined from previous elections. Local NGOs reported as many as 33 killings that were possibly politically motivated during the year; however, the motivation for many of these crimes was unclear. The Government only took action against some alleged perpetrators of killings and addressed other misconduct inconsistently.

Technical problems with the registration process and preparation of voter lists effectively disenfranchised many citizens. There were also incidents of voter intimidation by local officials. The NEC failed to establish a credible process to resolve election complaints, including charges of political intimidation, gift-giving, vote-buying, and procedural irregularities. The appointment of NEC members by the MOI was not transparent and left the NEC open to charges of political influence by the ruling CPP.

There were improvements in media access for registered parties, and open political debate and multi-party debates were televised nationally for the first time; however, electronic media coverage still heavily favored the ruling CPP. Some NGOs and political parties alleged that membership in the dominant CPP party provided advantages, such as gifts or access to government emergency aid. There were no limitations on political participation in traditional society; however, Mohanikaya Buddhist sect leader Tep Vong, who was believed to be pro-government, published an edict urging monks not to vote in these elections. As a result, there was low monk turnout on election day. The Government did not prohibit youth wings of political parties but also did not restrict the activities of the pro-CPP Pagoda Boys Association when it held counter-opposition demonstrations.

In 2002, the Government held its first national commune, local-level elections. The election results loosened the CPP's 23-year hold on local governance. The CPP won 7,703 council members seats nationwide, FUNCINPEC won 2,211 member seats, and the SRP won 1,346 member seats. Although CPP commune chiefs remained with 99 percent of the 1,621 communes, as a result of the elections, power was shared with other parties in all but 148 communes. During the commune level election campaign period, NGOs reported 25 FUNCINPEC and SRP activists and candidates were killed under suspicious circumstances, including 7 killings that human rights monitoring organizations agreed were motivated politically. The transfer of power to the newly elected Commune Councilors was smooth, and most Commune Councils had representatives elected from all three of the major political parties. At year's end, the MOI had yet to issue instructions for elected commune councils to implement the Commune Administration Law describing the power, duties, and functions of the councils.

Traditional culture has limited the role of women in government; however, women took an active part in the July National Assembly elections. After the July elections, there were 12 women in the 123-seat National Assembly, the same number as prior to the elections. There were 7 women in the 61-seat Senate. Prior to the formation of the new Government, there were 17 women working as ministers, secretaries of state, under-secretaries of state, and for the National Election Committee. Women also served as advisors and judges. After the 2002 local elections, women held 933 (8.3 percent) of the 11,261 commune council seats.

Minorities also took part in the Government. The July National Assembly elections resulted in five minorities—two Cham, two tribal, one Thai—elected to seats in the 123-seat National Assembly. There also were five representatives of minori-

ties—Cham, tribal, Thai—in the 61-seat Senate. At least five officials in senior positions in the Government were from minority groups.

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

A wide variety of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. The Government generally cooperated with human rights workers in performing their investigations; however, during the year, there were several reports of poor cooperation or intimidation by local authorities throughout the country.

There were approximately 40 NGOs involved in human rights activities, although only a small portion of them actively were involved in organizing training programs or investigating abuses.

On occasion, there have been credible threats to the safety of NGO staff working on illegal logging and trafficking in persons concerns. During the year, there were credible threats against the safety of staff of independent forestry monitor Global Witness and to forestry community network activists, but the Government made no serious efforts to protect them. In 2002, one staff member of Global Witness was assaulted by masked men after receiving threats demanding that she quit her job. During the year, threats against a local NGO providing shelter to trafficked victims and conducting anti-trafficking advocacy and investigations resulted in the NGO suspending investigations into human trafficking rings.

In 2002, the Government and UNHCHR signed a memorandum of understanding, which extended the UNHCHR's activities in the country for 2 more years. The UNHCHR conducted activities related to human rights and the judiciary, and maintained its headquarters in Phnom Penh and had two regional offices in Battambang and Kampong Cham. The U.N. Special Representative for Human Rights visited three times during the year and met with government officials as well as with representatives of political parties and NGOs.

In 2001, the Government passed a law that established a special tribunal to bring Khmer Rouge leaders to justice for genocide and war crimes committed from 1975 through 1979. On May 13, the U.N. General Assembly passed a resolution approving a draft agreement between the U.N. and the Government for prosecution of crimes during the Democratic Kampuchea period. The draft agreement was signed by both parties on June 6 but had not yet been ratified by the National Assembly by year's end. Some human rights groups expressed concern that local judges will not be impartial and independent.

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

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

The Constitution prohibits discrimination based on race, sex, color, language, religious beliefs, or political views. Although the Government did not engage actively in discrimination, it sometimes failed to protect these rights in practice. Societal discrimination against those infected with HIV/AIDS remained a problem in rural areas; however, discrimination was moderated by HIV/AIDS awareness programs during the year. There was no official discrimination against those infected with HIV/AIDS.

Women.—Domestic and international NGOs reported that violence against women, including domestic violence and rape, was common. The law prohibits rape and assault. Spousal rape and domestic abuse are not recognized as separate crimes. A case of spousal rape could be prosecuted as "rape," "causing injury," or "indecent assault," but such charges were rare. One local NGO reported 531 cases of domestic violence during the year; 27 cases resulted in death, and 433 cases resulted in injury. Cases of domestic violence increased during the year, up to an average of 44 cases a month from 41 cases a month in 2002. Authorities normally declined to become involved in domestic disputes, and the victims frequently were reluctant to issue formal complaints. Of 81 lawsuits filed in courts, 16 suspects were arrested and one was tried. A local NGO reported 325 cases of rape during the year, of which 221 cases involved girls under the age of 18. Of the cases, 58 percent were filed with the courts, while the remainder were settled out of court, often with financial compensation being given to the victims.

Prostitution is prohibited constitutionally; however, there is no specific legislation against working as a prostitute. Trafficking in women for the purpose of prostitution was a serious problem, despite laws against procuring and kidnapping for purposes of sexual exploitation (see Section 6.f.).

Despite sporadic crackdowns on brothel operators in Phnom Penh, prostitution and trafficking related to it continued to be a problem. A 1997 Commission on

Human Rights report to the National Assembly reported 14,725 working prostitutes, and this figure was confirmed by a statistical study during the year, which estimated that there were 18,256 working prostitutes in the country.

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

The Constitution contains explicit language providing for equal rights for women, equal pay for equal work, and equal status in marriage. In practice, women had equal property rights with men, the same status to bring divorce proceedings, and equal access to education and some jobs; however, cultural traditions continued to limit the ability of women to reach senior positions in business and other areas. According to a 2001 Labor Force Survey, women made up 52 percent of the population, 60 percent of agricultural workers, 85 percent of the business work force, 70 percent of the industrial work force, and 60 percent of all service sector workers. Women often were concentrated in low-paying jobs in these sectors and largely were excluded from management positions.

There were a large number of women's NGOs that provided training for poor women and widows and addressed social problems such as spousal abuse, prostitution, and trafficking. A media center produced and broadcasted programming on women's issues. NGOs provided shelters for women in crisis.

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

Children were affected adversely by an inadequate education system. Education was free, but not compulsory, through grade nine. Many children either left school to help their families in subsistence agriculture, began school at a late age, or did not attend school at all. A 2002 NGO report stated that primary school enrollment was 87 percent, but only approximately 19 percent of boys and 16 percent of girls had access to secondary education. Despite an extensive government school construction program, schools were overcrowded, lacked sufficient equipment, and often provided only a few years of education, especially in rural areas. Less than 5 percent of primary school teachers completed high school, and teachers' salaries were irregular and inadequate to support a decent standard of living, leading to demands for unofficial payments directly from parents, which the poorest families could not afford. The Government did not deny girls equal access to education; however, in practice, families with limited resources often gave priority to educating boys. In many areas, schools were remote, and transportation was a major problem. This particularly affected girls because of fears for their safety while traveling between their homes and schools.

Children frequently suffered from malnutrition and the inadequacy of the health care system. In 2002, infant mortality was estimated at 96 per thousand, based on year 2000 demographic projections. It was also estimated that the mortality rate for children under the age of 5 years was 138 per thousand.

Child abuse was believed to be common, although there were no statistics available. A domestic NGO estimated there were more than 1,500 children living on the streets who had cut all ties with their families, and more than 10,000 children that worked on the streets but went back to their family homes in the evenings. It was estimated that there were 550 street children in Phnom Penh, 550 in Battambang and Banteay Meanchey Provinces, 100 in Kampong Cham, and 100 in Sihanoukville.

Although sexual intercourse with a person under the age of 15 is illegal, child prostitution and trafficking in children were common (see Section 6.f.). In 2000, the Government adopted a 5-year plan against child sexual exploitation that emphasized prevention through information dissemination and protection by law enforcement (see Section 6.f.). During the year, there were at least five cases in which foreigners were charged with pornography violations or pedophilia.

The illegal purchase and sale of infants and children for prostitution and adoption was a serious problem. During the year, raids on brothels rescued several underage girls who were trafficked to the country for prostitution. In 2001 and 2002, there were several documented cases in which individuals or organizations purchased infants or children from their natural parents, created fraudulent paper trails to document the children as orphans, and then earned substantial profits from fees or donations from unwitting adoptive families, including foreign families. Some of these children ended up being exploited. In some of these cases, the perpetrators encouraged women to give up their children under false pretenses. For example, the per-

petrators promised to care for the children temporarily but then refused to return them.

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

Persons with Disabilities.—The Government does not require that buildings or government services be accessible to persons with disabilities. The Government also prohibits persons with even minor disabilities from being teachers in public schools. In 1999, it was reported that there were 170,000 disabled persons, including 24,000 persons missing at least one limb and 6,744 persons missing more than one limb. Disability due to landmines accounted for 11.5 percent of the total population of persons with disabilities, while disability due to congenital problems and disease accounted for 53 percent. During the year, there were 697 landmine casualties, of which 146 underwent amputations. Programs administered by various NGOs brought about substantial improvements in the treatment and rehabilitation of persons who had lost limbs; however, persons who had lost limbs faced considerable societal discrimination, particularly in obtaining skilled employment.

National/Racial/Ethnic Minorities.—Citizens of Chinese and Vietnamese ethnicity constituted the largest ethnic minorities. Ethnic Chinese citizens were accepted in society; however, animosity toward ethnic Vietnamese, who were seen as a threat to the nation and culture, continued. The rights of minorities under the 1996 nationality law are not explicit; constitutional protections are extended only to “Khmer people.” During the year, student groups continued to make strong anti-Vietnamese statements; they complained of political control, border encroachments, and other problems for which they held ethnic Vietnamese persons within the country at least partially responsible. Preceding the July National Assembly elections, the SRP, FUNCINPEC, and a number of smaller political parties exploited anti-Vietnamese sentiment. Political parties attempted to disenfranchise thousands of ethnic Vietnamese citizens by challenging their voter registration rights and a mob prevented ethnic Vietnamese from voting on election day at least at one polling station. There was increased ethnic tension after the elections, which resulted in the burning of homes of Vietnamese and tense relations in several areas of Kandal Province.

In 2002, a provincial judge ruled against ethnic hill tribe villagers in a land dispute. Ethnic bias did not appear to be a factor in the judgment, but political influence was seen as important in this affair. The Appeals Court overturned the ruling (see Section 1.f.).

Section 6. Worker Rights

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

Most workers were subsistence rice farmers, and although there was an expanding service sector, most urban workers were engaged in small-scale commerce, self-employed skilled labor, or unskilled day labor. Unions also suffered from a lack of resources, training, and experience. Only a small fraction (estimated at less than 1 percent) of the labor force was unionized, and the trade union movement was still nascent and very weak. Unions were concentrated in the garment and footwear industries, where approximately 25 to 30 percent of the more than 200,000 workers were union members. In September, nine tourism and service industry unions joined to form the Cambodian Tourism and Service Workers Federation, which represented over 3,500 hotel, casino, and airport workers. The one public-sector union operating in the country, the Cambodia Independent Teachers Association (CITA), was registered as an “association.” Local and provincial authorities acting on the Government’s orders banned most of CITA’s activities.

The Labor Law requires unions and employer organizations to file a charter and list of officers with the MOSALVY. The MOSALVY has registered 511 factory unions and 14 national labor federations since the Labor Law went into effect in 1997, including 189 unions and 4 federations during the year. Labor unions continued to expand outside the garment sector as well. Unlike in previous years, there were no complaints that the Government failed to register unions or labor federations, although some unions and federations complained of unnecessary delays and

costs. Although all unions collect dues from members, none was able to operate without outside sources of financial support.

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

The Government's enforcement of provisions that protect the right of association was poor. The Government's enforcement efforts were hampered by a lack of political will and by confused financial and political relationships with employers and union leaders. The Government also suffered from a lack of resources, including trained, experienced labor inspectors, in part because it did not pay staff adequate salaries. The MOSALVY often decided in favor of employees, but rarely used its legal authority to penalize employers who defied its orders. The MOSALVY often advised employees in such situations to sue in court, which labor unions claimed was generally unnecessary, costly, and ineffective. On several occasions, dismissed union leaders accepted cash settlements after unsuccessfully appealing to the Government to enforce Labor Law provisions requiring their reinstatement; however, there were some cases in which the Government upheld labor rights. In July, the Ministry of Commerce threatened to revoke the export privileges of a factory that refused to comply with a MOSALVY order to reinstate three illegally suspended union leaders. In a provincial court case in September, a factory security chief was found guilty of assault and battery and of the violation of the individual rights of a union federation leader, whom he attacked in April. The court ordered the defendant to serve 14 months in prison and pay punitive damages to the victim.

There were credible reports of anti-union harassment by employers, including the dismissal of union leaders, in more than 20 garment factories and other enterprises during the year. In January, a factory manager sued five union leaders, claiming that union activities had resulted in losses in factory profits. The case was later dropped. In February, a factory manager and the factory's lawyer sued a union federation leader for insult, libel, and defamation. The investigating judge dropped the case due to lack of evidence.

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

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

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

There were 16 collective bargaining agreements registered with the Government, most of which did not meet international standards. In November, the first genuine collective bargaining agreement within the garment industry was reached following 12 months of bargaining. The agreement provides for extra sick leave and maternity leave, calls for the creation a union-controlled welfare fund, and requires management to upgrade the factory clinic. In 2001, the Government issued a regulation establishing procedures to allow unions to demonstrate that they represent workers for purposes of collective bargaining. This regulation also establishes requirements for employers and unions regarding collective bargaining and provides union leaders

with additional protection from dismissal. In 2002, MOSALVY established the Bureau of Labor Relations to facilitate the process of union registration and application for most representative status for unions. MOSALVY granted most representative status to 56 unions, enabling them to represent workers for purposes of collective bargaining. Other unions that have applied for this status and not yet received it complained of unnecessary bureaucratic delays.

In January 2002, the ILO initiated a program to resolve labor disputes. Since its inception in May, the program's tripartite arbitration council received 25 collective dispute cases between workers and management. Of these cases, 20 were resolved (10 through arbitral awards—all of which were substantially implemented—and 10 through conciliation during the arbitration process). The five remaining cases were pending at year's end.

The Labor Law provides for the right to strike and protects strikers from reprisal. During the year, there reportedly were 106 strikes. Most of these took place with the 7-day notice required by law. The Government allowed all strikes and demonstrations, including some in which demonstrators caused property damage. In spite of the provisions in the law protecting strikers from reprisals, there were credible reports of workers being dismissed on spurious grounds after organizing or participating in strikes. In some cases, strikers were pressured by employers to accept compensation and to leave their employment.

Police intervention generally was minimal and restrained, even in cases in which striking workers caused property damage; however, anti-riot police shot and killed a garment worker and injured three others during a strike in June. Workers beat a policeman to death in retaliation.

There are no export processing zones.

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

There also were reports of isolated cases of forced labor by domestic servants.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Government has adopted laws to protect children from exploitation in the workplace.

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

Of children between the ages of 5 years and 17 years 53 percent were employed. One-third of these children were over the age of 14 years, and 71 percent of them were engaged in agricultural, farming, or forestry activities; 21 percent of working children were sales or service workers, and 7 percent were engaged in production work.

Child labor was not prevalent in the garment industry, although there was at least one instance of a young worker misrepresenting her age in order to gain employment in a garment factory. Lack of credible civil documents made it difficult for employers to guard against this, and most garment factories had policies that set the age of employment above the legal minimum age of 15 years.

The most serious child labor problems were in the informal sector. Some observers noted that existing regulations do not address the problem of child labor in the informal sector adequately. With assistance from the ILO, MOSALVY established a child labor unit to investigate and combat child labor. In 1997, the Government, in conjunction with the ILO and NGOs, also approved a national action plan on child labor. The Government has not ratified ILO Convention 182 on the elimination of the worst forms of child labor.

The Ministry of Labor participated in an ILO-International Program for the Elimination of Child Labor program funded by a foreign government to remove children from hazardous work in the salt, fishing and rubber industries and to provide them with education and vocational training opportunities. In June, the Government signed a letter of agreement to participate in an NGO-led, foreign government-funded project to expand educational opportunities for children most vulnerable to child labor, particularly girls who are vulnerable to human trafficking.

The Constitution prohibits forced or bonded child labor; however, forced child labor was a serious problem in the commercial sex industry (see Section 6.f.). Law

enforcement agencies had authority to combat child prostitution, but did not do so in a sustained, consistent manner.

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

Garment workers earned an average of \$55 (220,000 riel) per month, including overtime and bonuses. Prevailing monthly wages in the garment sector and many other professions were insufficient to provide a worker and family with a decent standard of living. Civil service salaries also were insufficient to provide a decent standard of living, requiring government officials to secure outside sources of income, in many cases by obtaining second jobs or collecting bribes.

The Labor Law provides for a standard legal workweek of 48 hours, not to exceed 8 hours per day. The law stipulates time-and-one-half for overtime and double time if overtime occurs at night, on Sunday, or on a holiday; however, the Government did not enforce these standards effectively. Workers in many garment factories reported that overtime was excessive or involuntary, or that they were required to work 7 days per week. Outside the garment industry, regulations on working hours rarely were enforced.

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

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

f. Trafficking in Persons.—The law prohibits trafficking in persons; however, persons were trafficked to, from, and within the country. The Law on the Suppression of Kidnapping, Trafficking, and Exploitation of Humans (the trafficking law) establishes a jail sentence of 15 to 20 years for any person convicted of trafficking in persons under 15 years of age; the penalty is from 10 to 15 years for trafficking persons over the age of 15. A local NGO reported 152 cases of trafficking in persons. Approximately one-third of these cases involved underage girls, including several that involved girls between the ages of 5 and 10. The current trafficking law contains no provisions that would protect victims from charges under the country's immigration laws.

Although the enforcement of the anti-trafficking laws and prosecution of perpetrators continued to be uneven, there was some improvement in prosecution and conviction rates. The MOI reported that 62 individuals were arrested under the Trafficking Law (which includes charges for human trafficking and procuring), of whom 41 were put on trial and 21 remained in prison under investigation by the court system. Local NGOs reported that of 18 individuals suspected of involvement in trafficking cases, 16 were convicted to prison terms during the year. The Chief of the Prison Department (Phnom Penh) reported that 11 persons sentenced for trafficking entered the Phnom Penh prison system during the year. Three NGOs involved in the prosecution of trafficking cases reported that from March 2002 through March 2003, suspects in 10 of the 50 trafficking cases they worked on were tried in court. Nine suspects were convicted and sentenced, one was acquitted, 18 were dismissed for lack of evidence, and 19 remained pending at year's end. Three cases were settled out of court; approximately \$300 to \$400 was paid to each victim. Another NGO reported that it participated in the prosecution of seven trafficking suspects, of which six were convicted. Three were sentenced to 15 years' imprisonment, one sentenced to 10 years' imprisonment, and two sentenced to 5 years' imprisonment.

Several government ministries were active in combating trafficking. In 2000, the Government adopted a 5-year plan against child sexual exploitation that empha-

sized prevention through information dissemination and protection by law enforcement. In 2001, a national workshop assessed the national plan's progress and priorities for action. In 2002, the Government established mechanisms for monitoring and reporting on the national plan with all relevant ministries and provincial authorities. Also in 2002, the MOI established a Department of Anti-Human Trafficking and Juvenile Protection. The Ministry of Justice, in cooperation with the Japanese Institute for Legal Development, drafted a new anti-trafficking law that has been submitted to the Government for review. The MOSALVY, with International Organization for Migration (IOM) technical expertise, regularly repatriated trafficked victims from Thailand to Cambodia and from Cambodia to Vietnam. In addition, the MOSALVY worked with UNICEF and local NGOs to manage community-based networks aimed at early intervention of trafficking. The Ministry of Women's and Veterans' Affairs continued a public education campaign against trafficking, focusing on border provinces. The Ministry of Tourism submitted a draft tourism law that would give the Ministry authority to shut down hotels collaborating in child prostitution. In June, the Government signed a Memorandum of Understanding with Thailand to pursue joint investigations of transnational traffickers.

The majority of trafficking that occurred within the country provided both adults and children for exploitation in the country's sex industry. Estimates of the number of victims of trafficking in the sex industry ranged from 2,000 to more than 3,000, approximately 80 percent of whom were Vietnamese women and girls. Some Vietnamese women and girls were trafficked through the country for exploitation in the commercial sex trade in other Asian countries.

One study estimated that 88,000 citizens worked in Thailand as bonded laborers at any given time; many were exploited in the sex industry or, particularly young boys and girls, were employed as beggars. Similarly, boys and girls were trafficked to Vietnam for begging.

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

Traffickers used a variety of methods to acquire victims. In many cases, victims were lured by promises of legitimate employment. In other cases, acquaintances, friends, and even family members sold the victims outright or received payment for having helped deceive them. Young children, the majority of them girls, were often "pledged" as collateral for loans by desperately poor parents to brokers or middlemen; the children then were held responsible for repaying the loan and the accumulating interest. Local traffickers covered specific small geographic areas and acted as middlemen for larger trafficking networks. Organized crime groups, employment agencies, and marriage brokers were believed to have some degree of involvement.

In 2002, a local NGO identified clear patterns in the process of buying babies and children for the purposes of adoption and trafficking. Recruiters preyed on poor women, especially divorcees or widows, who were pregnant and about to give birth, or who had young children. Official paperwork was signed by orphanage directors and local officials—often bribed—who falsely stated that the children were found abandoned in provinces outside of Phnom Penh.

It was believed widely that some law enforcement and other government officials received bribes that facilitated the sex trade and trafficking in persons. High-ranking government officials or their family members reportedly operated, had a stake in, or received protection money from brothels which housed trafficking victims, including underage sex workers. There were no known prosecutions of corrupt officials for suspected involvement in trafficking in persons. In January, a police colonel and his wife were arrested for trafficking after a 12-year old victim was rescued from a brothel they owned and operated. Both the colonel and his wife were later released from custody, and NGOs have reported threats against their staff and the girl's family. In April, a police officer was accused of offering protection in exchange for money to undercover investigators in Svay Pak. Although the courts found the police officer not guilty, the MOI dismissed him from his position as a police officer. The military investigated reports that a military officer also was involved in the same incident and discovered the perpetrator was a civilian who had obtained a military uniform. The investigating judge of the Phnom Penh Municipal Court ordered the civilian imprisoned in a re-education center.

The MOSALVY referred trafficking victims to NGOs. Most assistance to victims was given through projects run by local NGOs and international organizations. The Government participated as a partner in a number of these efforts; however, its contributions were hampered severely by the limited resources at its disposal. Some victims were encouraged by NGOs and the MOI to file complaints against perpetra-

tors. However, in the general climate of impunity, victim protection was problematic and victims often were intimidated into abandoning their cases.

During the year, the Asia Foundation assisted the Government in repatriating nine Cambodian forced laborers from a Thai fishing vessel that sank in Indonesian waters. In 2002, the Government worked with the IOM to repatriate 73 Cambodian forced laborers from Thai fishing vessels who were arrested by the Indonesian navy in 2001.

In 2002 and during the year, the Government created specialized anti-trafficking and juvenile protection units in several provinces, which raided a number of brothels. From January through November, the specialized unit in Phnom Penh initiated 415 investigations of activities including child sex, trafficking, rape, debauchery, and pornography, which resulted in 25 raids on suspected human traffickers, and 33 suspected traffickers were turned over to the Phnom Penh Municipal Court. The raids of the specialized unit in Phnom Penh also resulted in the rescue of 54 victims of human trafficking, 9 of whom were under the age of 18. Other police units also conducted raids of brothels and rescued numerous prostitutes, including underage workers. The Government provided rescued victims with protection while working with NGOs to either reunite the victims with their families or to place them in a shelter operated by an NGO or other private charity. Trafficking victims, especially those exploited sexually, faced societal discrimination, particularly in their home villages and within their own families, as a result of having been trafficked.

Although the Government protected persons who admitted that they were victims of trafficking, there were cases in 2002 in which victims, who claimed they were 18 and had entered prostitution willingly, were treated as deportable aliens. In May 2002, 14 Vietnamese trafficking victims were taken to a shelter operated by a local NGO. One month later, all 14 victims were arrested on charges of illegal immigration. Government officials stated that the victims being held were voluntary prostitutes and the arrests were a legal immigration issue. Six of the girls were later found guilty and given short prison terms. Credible sources reported that the girls never were deported but that they were released back into society in exchange for payments to immigration authorities. This case sparked widespread criticism from international organizations, NGOs, and other governments.

The Government used posters, television and radio campaigns, and traditional local theater to raise public awareness of human trafficking. In 2001, the Ministry of Women's and Veteran's Affairs launched a major information campaign. The IOM worked with the Ministry throughout the year to expand this project to all provinces. Because of severe resource problems, the Government depended heavily on assistance from international organizations, bilateral donors, and foreign and domestic NGOs to carry out its prevention programs.

CHINA

The People's Republic of China (PRC) is an authoritarian state in which, as directed by the Constitution, the Chinese Communist Party (CCP or Party) is the paramount source of power. Party members hold almost all top government, police, and military positions. Ultimate authority rests with the 24-member political bureau (Politburo) of the CCP and its 9-member standing committee. Leaders made a top priority of maintaining stability and social order and were committed to perpetuating the rule of the CCP and its hierarchy. Citizens lacked both the freedom peacefully to express opposition to the Party-led political system and the right to change their national leaders or form of government. Socialism continued to provide the theoretical underpinning of national politics, but Marxist economic planning has given way to pragmatism, and economic decentralization increased the authority of local officials. The Party's authority rested primarily on the Government's ability to maintain social stability; appeals to nationalism and patriotism; Party control of personnel, media, and the security apparatus; and continued improvement in the living standards of most of the country's 1.3 billion citizens. The Constitution provides for an independent judiciary; however, in practice, the Government and the CCP, at both the central and local levels, frequently interfered in the judicial process and directed verdicts in many high-profile cases.

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

The country's transition from a centrally planned to a market-based economy continued. Although state-owned industry remained dominant in key sectors, the Government has set up a commission to help reform major state-owned enterprises (SOEs), privatized many small and medium SOEs, and allowed private entrepreneurs increasing scope for economic activity. Rising urban living standards; greater independence for entrepreneurs; the reform of the public sector, including government efforts to improve and accelerate sales of state assets and to improve management of remaining government monopolies; and expansion of the non-state sector increased workers' employment options and significantly reduced state control over citizens' daily lives.

The country faced many economic challenges, including reform of SOEs and the banking system, growing unemployment and underemployment, the need to construct an effective social safety net, and growing regional economic disparities. In recent years, between 100 and 150 million persons voluntarily left rural areas to search for better jobs and living conditions in the cities, where they were often denied access to government-provided economic and social benefits, including education and health care. During the year, the Government issued regulations that relaxed controls over such migration and expanded the rights of migrants to basic social services. In the industrial sector, continued downsizing of SOEs contributed to rising urban unemployment that was widely believed to be much higher than the officially estimated 4 percent, with many sources estimating the actual figure to be as high as 20 percent. Income gaps between coastal and interior regions, and between urban and rural areas, continued to widen. The Government reported that urban per capita income in 2002 was \$933 and grew by 12 percent over the previous year, while rural per capita income was \$300 and grew by 5 percent. Official estimates of the number of citizens living in absolute poverty showed little change from the previous year, with the Government estimating that 30 million persons lived in poverty and the World Bank, using different criteria, estimating the number to be 100 to 150 million persons.

The Government's human rights record remained poor, and the Government continued to commit numerous and serious abuses. Although legal reforms continued, there was backsliding on key human rights issues during the year, including arrests of individuals discussing sensitive subjects on the Internet, health activists, labor protesters, defense lawyers, journalists, house church members, and others seeking to take advantage of the space created by reforms. Citizens did not have the right peacefully to change their government, and many who openly expressed dissenting political views were harassed, detained, or imprisoned. Authorities were quick to suppress religious, political, and social groups that they perceived as threatening to government authority or national stability.

Abuses included instances of extrajudicial killings, torture and mistreatment of prisoners, forced confessions, arbitrary arrest and detention, lengthy incommunicado detention, and denial of due process. Tibetan Lobsang Dondrub was executed in January, a day after his appeal was denied, despite promises made to diplomatic observers that the Supreme People's Court (SPC) would review his case. In April, the Government officially concluded a nationwide "strike hard" campaign against crime, which was implemented with particular force in Xinjiang and included expedited trials and public executions. However, short-term campaigns against specific types of crime were launched in some areas during the year, and, in Xinjiang, particularly harsh treatment of suspected Uighur separatists reportedly continued after the official end of the nationwide strike hard campaign in April. Amnesty International (AI) reported that China executed more persons than any other country.

The judiciary was not independent, and the lack of due process remained a serious problem. Government pressure made it difficult for Chinese lawyers to represent criminal defendants. A number of attorneys were detained for representing their clients actively. During the year, Beijing defense lawyer Zhang Jianzhong and Shanghai housing advocate Zheng Enchong both were sentenced to multi-year prison terms in connection with their defense of controversial clients. The authorities routinely violated legal protections in the cases of political dissidents and religious figures. They generally attached higher priority to suppressing political opposition and maintaining public order than to enforcing legal norms or protecting individual rights.

Throughout the year, the Government prosecuted individuals for subversion and leaking state secrets as a means to harass and intimidate. In July, lawyer Zhao Changqing was sentenced to 5 years' imprisonment on charges of subversion for his alleged role in drafting an open letter to the November 2002 16th Party Congress urging democratization. At least five others who signed the letter were also prosecuted on such charges. In October, former attorney Zheng Enchong was sentenced to 3 years in prison for "disclosing state secrets" as an alleged result of his providing

information about labor and housing protests to a foreign human rights organization. The same month, house church member Liu Fenggang was detained on state secrets charges, allegedly for providing information to overseas nongovernmental organizations (NGOs) about his investigation into the destruction of house churches in Zhejiang Province. Others detained, prosecuted, or sentenced on state secrets charges included political dissident Yang Jianli and a number of Internet writers.

Over 250,000 persons were serving sentences, not subject to judicial review, in "reeducation-through-labor" camps. In April, inmate Zhang Bin was beaten to death in a reeducation-through-labor camp, prompting public debate on reeducation through labor and calls to abolish the system.

The number of individuals serving sentences for the now-repealed crime of counterrevolution was estimated at 500-600; many of these persons were imprisoned for the nonviolent expression of their political views. Credible sources estimated that as many as 2,000 persons remained in prison at year's end for their activities during the June 1989 Tiananmen demonstrations.

The authorities released political activist Fang Jue in January. Many others, including China Democracy Party co-founders Wang Youcai and Qin Yongmin; Internet activists Xu Wei, Yang Zili, and Huang Qi; Uighur businesswoman Rebiya Kadeer; journalist Jiang Weiping; labor activists Yao Fuxin, Xiao Yunliang, and Liu Jingsheng; Catholic Bishop Su Zhimin; house church leaders Zhang Yinan, Liu Fenggang and Xu Yonghai; Tibetan nun Phuntsog Nyidrol; Uighur historian Tohti Tunyaz; and political dissident Yang Jianli remained imprisoned or under other forms of detention.

The Government used the international war on terror as a justification for cracking down harshly on suspected Uighur separatists expressing peaceful political dissent and on independent Muslim religious leaders. The human rights situation in the Tibet Autonomous Region (TAR) and in some ethnically Tibetan regions outside the TAR also remained poor (see Tibet Addendum).

The Government maintained tight restrictions on freedom of speech and of the press. The Government regulated the establishment and management of publications, controlled the broadcast media, at times censored foreign television broadcasts, and at times jammed radio signals from abroad. During the year, publications were closed and otherwise disciplined for publishing material deemed objectionable by the Government, and journalists, authors, academics, and researchers were harassed, detained, and arrested by the authorities. In May, Sichuan website manager Huang Qi and students belonging to the New Youth Study Group received long prison sentences for their Internet essays encouraging democracy. Others detained or convicted for their Internet activity included Tao Haidong, Luo Yongzhong, Du Daobin, Yan Jun, Li Zhi, and Jiang Lijun. In November, Beijing Normal University Student Liu Di and two others were released on bail after a year of pretrial detention in connection with their Internet postings. Internet use continued to grow in the country, even as the Government continued and intensified efforts to monitor and control use of the Internet and other wireless technology including cellular phones, pagers, and instant messaging devices. During the year, the Government blocked many websites, increased regulations on Internet cafes, and pressured Internet companies to pledge to censor objectionable content. NGOs reported that 39 journalists were imprisoned at year's end and that 48 persons had been imprisoned by the Government for their Internet writing during China's brief history of Internet use.

Initially, news about the outbreak of Severe Acute Respiratory Syndrome (SARS) was strictly censored, and some journals were closed because they disclosed information about SARS. In April, the Government publicly acknowledged that the SARS epidemic was more serious than previously admitted. Those accused of interfering with SARS prevention were detained. Hundreds of Falun Gong practitioners were detained on such accusations. Information about the spread of HIV/AIDS also continued to be tightly controlled in some provinces. In June, hundreds of police violently suppressed protests by persons infected with HIV/AIDS in Xiongqiao village, Henan Province. Henan health official Ma Shiwen was detained during the year on charges of disclosing state secrets after providing information about the extent of the HIV epidemic in Henan Province to website publishers.

The Government severely restricted freedom of assembly and association and infringed on individuals' rights to privacy.

While the number of religious believers in the country continued to grow, government respect for religious freedom remained poor. Members of unregistered Protestant and Catholic congregations; Muslim Uighurs; Tibetan Buddhists, particularly those residing within the TAR (see Tibet Addendum); and members of folk religions experienced ongoing and, in some cases, increased official interference, harassment, and repression. Protestant activists Zhang Yinan, Xu Yonghai, Liu Fenggang, and

Zhang Shengqi were among those detained or sentenced. However, religious groups in some areas noted a greater freedom to worship than in the past. The Government continued to enforce regulations requiring all places of religious activity to register with the Government or to come under the supervision of official, "patriotic" religious organizations. In some areas, religious services were broken up and church leaders and adherents were harassed, detained, or beaten. At year's end, scores of religious adherents remained in prison because of their religious activities. No visible progress was made in improving relations between the Government and the Vatican, although both sides claimed to be ready to resume negotiations aimed at establishing diplomatic relations. The Government continued its crackdown against the Falun Gong spiritual movement, and thousands of practitioners remained incarcerated in prisons, extrajudicial reeducation-through-labor camps, and psychiatric facilities. Several hundred Falun Gong adherents reportedly have died in detention due to torture, abuse, and neglect since the crackdown on Falun Gong began in 1999.

Freedom of movement continued to be restricted. The Government denied the U.N. High Commissioner for Refugees (UNHCR) permission to operate along its border with North Korea and deported several thousand North Koreans, many of whom faced persecution upon their return. Abuse and detention of North Koreans in the country was also reported. However, the Government continued to relax its residence-based registration requirements and eliminated requirements for work unit approval of certain personal decisions, such as getting married.

The Government did not permit independent domestic nongovernmental organizations (NGOs) to monitor human rights conditions. In September, the U.N. Special Rapporteur on the Right to Education visited Beijing. Although the Government extended "unconditional" invitations to the U.N. Special Rapporteur for Torture, the U.N. Special Rapporteur for Religious Intolerance, the U.N. Working Group on Arbitrary Detention, and the U.S. Commission on International Religious Freedom (USCIRF), expected visits did not occur by year's end. Conditions imposed by the Government caused negotiations with the U.N. Special Rapporteur for Torture to break down and caused USCIRF twice to postpone a planned trip.

Violence against women (including imposition of a birth limitation policy coercive in nature that resulted in instances of forced abortion and forced sterilization), prostitution, and discrimination against women, persons with disabilities, and minorities continued to be problems.

Labor demonstrations, particularly those protesting nonpayment of back wages, continued but were not as large or widespread as those in 2002. In May, Yao Fuxin and Xiao Yunliang, leaders of the largest demonstrations in 2002, were sentenced to prison terms on charges of subversion. Workplace safety remained a serious problem, particularly in the mining industry. The Government continued to deny internationally recognized worker rights, and forced labor in prison facilities remained a serious problem. Trafficking in persons also remained a serious problem.

However, significant legal reforms continued during the year. In June, the Government abolished the administrative detention system of "custody and repatriation" for migrants. Reforms also expanded legal aid and introduced restrictions on extended unlawful detention. In October, the Third Party Plenum formally approved a constitutional amendment that will, if approved at the March 2004 session of the National People's Congress, put the protection of individual rights into China's constitution for the first time. At year's end, it remained unclear how these reforms would be implemented and what effect they would have.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—During the year, politically motivated and other arbitrary and unlawful killings occurred. The official press reported extrajudicial killings, but no nationwide statistics were available. Deaths in custody due to police use of torture to coerce confessions from criminal suspects continued to occur. Beating deaths during administrative detention also occurred and sparked public calls for reform (see Sections 1.c. and 1.d.).

Several hundred Falun Gong adherents reportedly have died in detention due to torture, abuse, and neglect since the crackdown on Falun Gong began in 1999. For example, Falun Gong groups alleged that more than 50 persons died in custody in June through August, many from torture in detention camps.

Trials involving capital offenses sometimes took place under circumstances where the lack of due process or a meaningful appeal bordered on extrajudicial killing. NGOs reported over 1,000 executions during the year, including dozens on June 26 to mark international anti-drug day. AI reported that China executed more persons

than any other country. In 2002, officials reportedly carried out over 4,000 executions after summary trials as part of a nationwide “strike hard” campaign against crime. The actual number of persons executed likely was far higher than the number of reported cases. The Government regarded the number of death sentences it carried out as a state secret but stated that the number of executions decreased during the year. Some foreign academics estimated that as many as 10,000 to 20,000 persons were executed each year.

b. Disappearance.—In some areas, police targeted dissidents without family members for detention or incarceration in psychiatric facilities. With no family to notify, this practice in effect constituted disappearance.

The Government has used incommunicado detention. For example, in December 2002, the Government acknowledged that it was holding dissident Wang Bingzhang, who along with two other individuals disappeared in Vietnam on June 26, 2002. After several months of incommunicado detention, the other detainees, Zhang Qi and Yue Wu, were released but, in January, Wang was convicted on charges of espionage and terrorism and sentenced to life in prison. In February, his appeal was denied. In July, the U.N. High Commissioner for Human Rights found that Wang’s disappearance, arrest, and imprisonment violated international standards, and he asked the Guangdong Provincial High Court in September to reconsider his case. Wang also objected to being forced to attend political study sessions and went on a hunger strike in prison as a protest. At year’s end, the court had taken no action.

As of year’s end, the Government had not provided a comprehensive, credible accounting of all those missing or detained in connection with the suppression of the 1989 Tiananmen demonstrations.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits torture; however, police and other elements of the security apparatus employed torture and degrading treatment in dealing with some detainees and prisoners. The Prison Law forbids prison guards from extorting confessions by torture, insulting prisoners’ dignity, and beating or encouraging others to beat prisoners. While senior officials acknowledged that torture and coerced confessions were chronic problems, they did not take sufficient measures to end these practices. Former detainees reported credibly that officials used electric shocks, prolonged periods of solitary confinement, incommunicado detention, beatings, shackles, and other forms of abuse. Recommendations from the May 2000 report of the U.N. Committee Against Torture still had not been fully implemented by year’s end. These recommendations included incorporating a definition of torture into domestic law, abolishing all forms of administrative detention (including reeducation through labor), promptly investigating all allegations of torture, and providing training courses on international human rights standards for police.

During the year, police use of torture to coerce confessions from criminal suspects continued to be a problem. The 2002 death in custody of Zeng Lingyun of Chongqing Municipality remained unresolved. On July 26, 2002, public security personnel detained Zeng on theft charges. On July 28, his family was informed that he had died. Local officials initially told Zeng’s family that he had been shot by police, and the family noticed extensive bruises and a bullet wound on the body.

Since the crackdown on Falun Gong began in 1999, there reportedly have been several hundred deaths in custody of Falun Gong adherents, due to torture, abuse, and neglect (see Section 2.c.).

The Government made some efforts to address the problem of torture during the year. Some provincial governments issued regulations stipulating that judges and police using torture to extract confessions from suspects would face dismissal. The Government announced that evidence obtained through coerced confessions would be excluded from trial in certain administrative cases (which include acts akin to certain criminal misdemeanors as well as behavior punishable through administrative detention, such as disruption to social order). Police officers who tortured suspects faced dismissal and criminal prosecution in some cases. For example, two police in Dandong, Liaoning Province, were sentenced to 1 and 2 years in jail in December, after torturing two suspects to death in 2001.

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

Conditions in penal institutions for both political prisoners and common criminals generally were harsh and frequently degrading. Prisoners and detainees often were kept in overcrowded conditions with poor sanitation, and their food often was inadequate and of poor quality. Many detainees relied on supplemental food and medicines provided by relatives, but some prominent dissidents reportedly were not allowed to receive supplemental food or medicine from relatives. According to released

political prisoners, in many provinces it was standard practice for political prisoners to be segregated from each other and placed with common criminals. Released prisoners reported that common criminals have beaten political prisoners at the instigation of guards. Some prominent political prisoners received better than standard treatment.

The 1994 Prison Law was designed, in part, to improve treatment of detainees and increase respect for their legal rights; however, many provisions of this law have not been effectively implemented. Some prisoners were able to use administrative procedures provided for in this law to complain about prison conditions. The Government also has created some "model" facilities, where inmates generally received better treatment than those held in other facilities. Chinese prison management relied on the labor of prisoners both as an element of punishment and to fund prison operations (see Section 6.c.). During the year, the Government established a pilot program in some locations to separate prison enterprises from prison reform and punishment functions.

Adequate, timely medical care for prisoners continued to be a serious problem, despite official assurances that prisoners have the right to prompt medical treatment if they become ill. Political prisoners continued to have difficulties in obtaining medical treatment, despite repeated appeals on their behalf by their families and the international community. Those with health concerns included China Democracy Party (CDP) co-founders Qin Yongmin and Wang Youcai; Internet essayist Luo Yongzhang; democracy activists Hua Di and He Depu; labor activists Xiao Yunliang, Yao Fuxin, Hu Shigen, Liu Jingsheng, and Zhang Shanguang; Tibetan nun Phuntsog Nyidrol; religious prisoners Liu Fenggang and Bishop Su Zhimin; dissident Wang Bingzhang; and Uighur businesswoman Rebiya Kadeer. During the year, anti-corruption campaigner An Jun, Internet dissident Xu Wei, and dissident Wang Bingzhang allegedly went on hunger strikes in prison.

Conditions in administrative detention facilities, such as reeducation-through-labor camps, were similar to those in prisons. Two highly publicized deaths in administrative detention prompted calls for an overhaul of the system. In March, a university graduate, Sun Zhigang from Henan Province, was beaten to death in a Guangzhou city custody and repatriation center after being detained by police as a suspected illegal migrant. Sun did not have a Guangzhou residency document, and police reportedly locked him in a custody and repatriation facility because his accent revealed he was from a different province. In the facility, inmates beat him to death, and some facility employees allegedly knew of and encouraged the beating. Subsequently, criminal charges were filed against 18 persons. One staff member of the facility was executed, and several prisoners who allegedly inflicted the beating received stiff jail terms or suspended death sentences. Police involved were given mostly administrative punishments. Sun's death led to unprecedented public calls for abolition of the custody and repatriation system of administrative detention for illegal migrants, including petitions by legal scholars and National People's Congress (NPC) members. On June 22, the State Council abolished the system and called for the conversion of administrative detention centers into humanitarian relief centers to support migrants, vagrants, and the homeless. At year's end, the impact of these reforms remained uncertain.

In April, inmate Zhang Bin was tortured and beaten to death at the Huludao City Correctional Camp, a reeducation-through-labor facility in Liaoning Province, where he had reportedly been sentenced to 18 months as punishment for theft. For 30 days, 9 inmates and the inmate labor boss reportedly beat Zhang, stripped him naked, abused him with plastic pipes and hammers, applied hot peppers and salt to his wounds, and doused him in cold water. After Zhang died in an ambulance on the way to a hospital on April 16, 2 workers at the camp were indicted on criminal charges of abuse of authority. In December, inmates charged in the beating were sentenced to long prison terms, and the leader of the gang who beat Zhang was given the death penalty. Zhang's death also prompted calls for reform of reeducation through labor, including a petition by six Guangzhou-based members of the Chinese People's Political Consultative Conference, but no such reforms had been made as of year's end.

In the wake of the Sun and Zhang deaths in custody, public security officials admitted that these beating deaths were not isolated incidents. Sexual and physical abuse and extortion were reported in some detention centers. Forced labor in prisons and reeducation-through-labor camps was also common. At the Xinhua Reeducation-Through-Labor Camp in Sichuan Province, inmates were forced to work up to 16 hours per day breaking rocks or making bricks, according to credible reports.

The Government generally did not permit independent monitoring of prisons or reeducation-through-labor camps, and prisoners remained inaccessible to international human rights organizations. Although the Government agreed to invite the

U.N. Special Rapporteur for Torture, this visit stalled in part because of the Government's refusal to allow him to visit prisons without advance notice (see Section 4). By year's end, the Government had not announced any progress in talks with the International Committee of the Red Cross (ICRC) on an agreement for ICRC access to prisons, although there was some discussion of ICRC opening an office in Beijing. Semi-monthly working-level meetings intended to renew cooperation on the U.S.-China Prison Labor Memorandum of Understanding continued during the year (see Section 6.c). A scheduled visit by U.S. officials to discuss prison labor was postponed due to SARS.

d. Arbitrary Arrest, Detention, or Exile.—Arbitrary arrest and detention remained serious problems. The law permits authorities, in some circumstances, to detain persons without arresting or charging them, and persons may be sentenced administratively to up to 3 years in reeducation-through-labor camps and other similar facilities without a trial. Because the Government tightly controlled information, it was impossible to determine accurately the total number of persons subjected to new or continued arbitrary arrest or detention. Official government statistics indicated that there were 230,000 persons in reeducation-through-labor camps, while NGOs claimed some 310,000 persons were in reeducation through labor during the year. According to a 2001 article by the official news agency, 300 reeducation-through-labor facilities have held more than 3.5 million prisoners since 1957. In addition, it was estimated that approximately 2 million persons per year were detained in a form of administrative detention known as custody and repatriation until that system was abolished in June after the beating death of Sun Zhigang (see Section 1.c.). The Government also confined some Falun Gong adherents, labor activists, and others to psychiatric hospitals. Approximately 500–600 individuals continued to serve sentences for the now-repealed crime of counterrevolution. Many of these persons were imprisoned for the nonviolent expression of their political views (see Section 1.e.).

The Ministry of Public Security (MPS) coordinates the country's law enforcement, which is administratively organized into local, county, provincial, and specialized police agencies. Recent efforts have been made to strengthen historically weak regulation and management of law enforcement agencies; however, judicial oversight is limited and checks and balances are absent. Many police and law enforcement units in the country remained poorly trained and lacked basic investigation skills. Corruption at the local level was widespread. Police officers reportedly coerced victims, took individuals into custody without due cause, arbitrarily collected fees from individuals charged with crimes, and mentally and physically abused victims and perpetrators. State media reported that the Government fired over 44,700 police officers for corruption and abuse of authority or dereliction of duty during the year.

Extended, unlawful detention by security officials remained a serious problem. The Supreme People's Procuratorate reported that, from 1998 through 2002, there were 308,182 persons detained for periods longer than permitted by law. At a National People's Congress committee hearing, the Government acknowledged that the problem of extended detention "has not been fundamentally resolved" and varied by location.

Unlawful extended detention disproportionately affected political dissidents. Dissident Yang Jianli was held without charges for over a year before his August 4 trial. At year's end, he remained in jail without a conviction or legal justification for his extended detention. In June, the U.N. Working Group on Arbitrary Detention found that China's pretrial detention of Yang Jianli violated the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights. The release on bail of Internet writer Liu Di after a year of pretrial detention, as well as the convictions of democracy activist Jiang Lijun after a year of pretrial detention and of attorney Zhang Jianzhong after more than 19 months of pre- and post-trial detention, were results of public concern over the issue of unlawful extended detention and a resulting government campaign to address the problem.

This campaign, addressing both pre- and post-trial detention, began in July when the SPC, and later the MPS and Supreme People's Procuratorate, directed courts and police to resolve cases and provide statistics about unlawful extended detention. The MPS stated that police responsible for unlawful extended detention would be prosecuted, and some police were prosecuted and jailed on such charges during the year. At year's end, the SPC announced that Chinese courts had reviewed all cases of unlawful extended detention by police and the courts. According to state media, courts reviewed and solved 4,100 cases of unlawful extended detention, releasing 7,658 detainees; only 91 cases remained unresolved and required further examination.

According to the 1997 Criminal Procedure Law, police can unilaterally detain a person for up to 37 days before releasing him or formally placing him under arrest.

After a suspect is arrested, the law allows police and prosecutors to detain him for months before trial while a case is being “further investigated.” The law stipulates that authorities must notify a detainee’s family or work unit of his detention within 24 hours. However, in practice, failure to provide timely notification remained a serious problem, particularly in sensitive political cases. Under a sweeping exception, officials were not required to provide notification if doing so would “hinder the investigation” of a case. In some cases, police treated those with no immediate family more severely. Police continued to hold individuals without granting access to family members or lawyers, and trials continued to be conducted in secret. Detained criminal suspects, defendants, their legal representatives, and close relatives were entitled to apply for bail, but, in practice, few suspects were released pending trial.

The Criminal Procedure Law does not address the reeducation-through-labor system, which allows non-judicial panels of police and local authorities, called Labor Reeducation Committees, to sentence persons to up to 3 years in prison-like facilities. The committees could also extend an inmate’s sentence for an additional year. Defendants were legally entitled to challenge reeducation-through-labor sentences under the Administrative Litigation Law. They could appeal for a reduction in, or suspension of, their sentences; however, appeals rarely were successful. Many other persons were detained in similar forms of administrative detention, known as “custody and education” (for example, for prostitutes and their clients) and “custody and training” (for minors who committed crimes). Persons could be detained for long periods under these provisions, particularly if they could not afford to pay fines or fees.

According to foreign researchers, the country had 20 “ankang” institutions (high-security psychiatric hospitals for the criminally insane) directly administered by the MPS. Some dissidents and other targeted individuals were housed with mentally ill patients in these institutions. The regulations for committing a person into an ankang psychiatric facility were not clear. Credible reports indicated that a number of political and trade union activists, “underground” religious believers, persons who repeatedly petitioned the Government for redress of grievances, members of the banned China Democratic Party, and hundreds of Falun Gong adherents were incarcerated in such facilities during the year. These included Wang Miaogen, Wang Chanhao, Pan Zhiming, and Li Da, who were reportedly held in an ankang facility run by the Shanghai Public Security Bureau. According to NGO reports, more than 30 persons were committed during 2002 to the Harbin Psychiatric Hospital against their will after petitioning authorities for redress of various personal grievances. New regulations issued during the year by some jurisdictions to control police abuses required that all verifications of mental illness must be conducted in hospitals appointed by provincial governments, but it was unknown what impact, if any, the regulations would have in practice. A motion before the World Psychiatric Association to expel China from the organization for using psychiatric facilities to incarcerate political prisoners remained under consideration during the year.

Arrests on charges of revealing state secrets, subversion, and common crimes were used during the year by authorities to suppress political dissent and social advocacy. For example, Shanghai housing advocate Zheng Enchong was arrested on June 6 after he represented hundreds of residents forced from their homes as a result of an urban redevelopment scheme. Henan health official Ma Shiwen was reportedly detained for revealing state secrets after allegedly providing information to NGOs about the HIV infection of thousands of villagers through blood collection procedures. Police sometimes harassed and detained relatives of dissidents (see Section 2.a.). Journalists also were detained or threatened during the year, often when their reporting met with the Government’s or local authorities’ disapproval (see Section 2.a.). Dozens of citizens writing on the Internet or engaging in on-line chatrooms about political topics were detained during the year (see Section 2.a.). Persons critical of official corruption or malfeasance also frequently were threatened, detained, or imprisoned. In December, Sichuan local official Li Zhi was sentenced to 8 years in prison for “subverting state power” after writing on the Internet to expose official corruption. In January 2002, Jiang Weiping, who had written a series of articles exposing official corruption, was sentenced to 8 years in prison for “subverting state power.”

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

The campaign that began in 1998 against the China Democracy Party (CDP), an opposition party, continued during the year. Dozens of CDP leaders, activists, and members have been arrested, detained, or confined as a result of this campaign. Since December 1998, at least 38 core leaders of the CDP have been given severe punishments on subversion charges. Xu Wenli, Wang Youcai, and Qin Yongmin

were sentenced in 1998 to prison terms of 13, 12, and 11 years respectively. While Xu Wenli was released on medical parole to the United States in December 2002, Wang and Qin remained in prison. In March, Shanghai CDP leader Han Lifa was detained reportedly for “soliciting prostitutes,” a charge used in the past to discredit dissidents. He was sentenced to 3 years’ reeducation through labor. Immediately before and after the 16th Party Congress in November 2002, authorities rounded up a number of the 192 activists, many of whom were members of the CDP, in 17 provinces who had signed an open letter calling for political reform and a reappraisal of the official verdict on the 1989 Tiananmen massacre. Among those detained or sentenced to prison terms on subversion charges during the year in connection with the open letter were lawyer Zhao Changqing, He Depu, Sang Jiancheng, Ouyang Yi, Dai Xuezhong, and Jiang Lijun.

A nation-wide anti-crime “strike hard” campaign began in April 2001 and continued early in the year before officially ending in April. It was characterized by large-scale sentencing rallies and parades of condemned prisoners through the streets of major cities, followed by public executions. The campaign was implemented with special force in Xinjiang, and particularly harsh treatment of suspected Uighur separatists reportedly continued there after the official end of the campaign in April. According to official reports, 12,976 persons in Beijing alone were sentenced to death or prison for longer than 2 years during the 2-year campaign. Officials announced regional results of the campaign during the summer, but no nationwide statistics were available. Diplomatic officials were barred from a Beijing museum display showing results of the campaign. Short-term campaigns against specific types of crime were launched in some areas during the year.

The strike hard campaign in Xinjiang specifically targeted the “three evils” of extremism, splittism, and terrorism as the major threats to Xinjiang’s social stability. Because the Government authorities in Xinjiang regularly grouped together those involved in “ethnic separatism, illegal religious activities, and violent terrorism,” it was often unclear whether particular raids, detentions, or judicial punishments targeted those peacefully seeking their goals or those engaged in violence. Many observers raised concerns that the Government’s war on terror was a justification for cracking down harshly on suspected Uighur separatists expressing peaceful political dissent and on independent Muslim religious leaders (see Section 5).

Chinese law neither provides for a citizen’s right to repatriate nor otherwise addresses exile. The Government continued to refuse reentry to numerous citizens who it considered to be dissidents, Falun Gong activists, or troublemakers. Although some dissidents living abroad have been allowed to return, dissidents released on medical parole and allowed to leave the country were effectively exiled.

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

e. Denial of Fair Public Trial.—The Constitution states that the courts shall, in accordance with the law, exercise judicial power independently, without interference from administrative organs, social organizations, and individuals. However, in practice, the judiciary received policy guidance from both the Government and the Party, whose leaders used a variety of means to direct courts on verdicts and sentences, particularly in politically sensitive cases. At both the central and local levels, the Government frequently interfered in the judicial system and dictated court decisions. Trial judges decide individual cases under the direction of the trial committee in each court. In addition, the Communist Party’s Law and Politics Committee, which includes representatives of the police, security, procuratorate, and courts, has authority to review and influence court operations; the Committee, in some cases, altered decisions. People’s Congresses also had authority to alter court decisions, but this happened rarely. Corruption and conflicts of interest also affected judicial decision-making. Judges were appointed by the people’s congresses at the corresponding level of the judicial structure and received their court finances and salaries from those government bodies, which sometimes resulted in local politicians exerting undue influence over the judges they appointed and financed.

The Supreme People’s Court (SPC) is the highest court, followed in descending order by the higher, intermediate, and basic people’s courts. These courts handle criminal, civil, and administrative cases, including appeals from decisions by police and security officials to use reeducation through labor and other forms of administrative detention. There were special courts for handling military, maritime, and railway transport cases.

Corruption and inefficiency were serious problems in the judiciary as in other areas (see Section 3). Safeguards against corruption were vague and poorly enforced.

In recent years, the Government has taken steps to correct systemic weaknesses in the judicial system and to make the system more transparent and accountable to public scrutiny. State media reported that, from January 2002 through October

2003, prosecutors filed 7,402 cases against judicial officials nationwide, involving 8,442 officials. Of these cases, 80 percent involved suspected malfeasance and rights violations, while 20 percent involved corruption and bribery. In 1999, the SPC issued regulations requiring all trials to be open to the public, with certain exceptions, including cases involving state secrets, privacy, and minors. The legal exception for cases involving state secrets was used to keep politically sensitive proceedings closed to the public and even to family members in some cases. Under the regulations, "foreigners with valid identification" are to be allowed the same access to trials as citizens. As in past years, foreign diplomats and journalists sought permission to attend a number of trials only to have court officials reclassify them as "state secrets" cases, thus closing them to the public. Since 1998, some trials have been broadcast, and court proceedings have become a regular television feature. A few courts published their verdicts on the Internet.

Lawsuits against the Government continued to increase as a growing number of persons used the court system to seek legal recourse against government malfeasance. Administrative lawsuits rose, with more than 100,000 such cases filed in 2001, according to government statistics. Losses by plaintiffs dropped from 35.9 percent in 1992 to 28.6 percent in 2001. In 2002, the SPC established guidelines giving litigants the right to access government files to facilitate lawsuits against government bodies. Decisions of any kind in favor of dissidents remained rare.

Court officials continued efforts to enable the poor to afford litigation by exempting, reducing, or postponing court fees. On September 1, new national regulations went into effect expanding the category of cases eligible for legal aid services and permitting those eligible to obtain legal aid as early as the initial interrogation in criminal cases. Those seeking to obtain compensation from government officials became eligible for legal aid services. From 2000 to 2002, the courts waived over \$387 million (RMB 3.2 billion) in litigation costs.

According to the SPC's March report to the NPC, from 1998 through 2002, 2.83 million criminal cases were tried, and 3.22 million offenders were sentenced, up 16 and 18 percent, respectively, from the previous 5-year period. In 2001, the country's courts handled 5,927,660 cases, 730,000 of which were criminal cases, a 33 percent increase over the previous year, as well as more than 100,000 appeals of administrative decisions. Some 819,000 criminal defendants were sentenced to jail terms of 5 years or more, life imprisonment, or death, during the 5-year period, accounting for approximately 25 percent of the total.

Police and prosecutorial officials often ignored the due process provisions of the law and of the Constitution. For example, police and prosecutors subjected many prisoners to torture and severe psychological pressure to confess, and coerced confessions frequently were introduced as evidence. The Criminal Procedure Law forbids the use of torture to obtain confessions, but does not expressly bar the introduction of coerced confessions as evidence. In August, new public security regulations were announced banning the use of torture to obtain confessions and prohibiting the use of coerced confessions in certain administrative cases. However, the new regulations offer no mechanism for a defendant in an administrative case to ensure that his coerced confession is disregarded. Some provinces passed further regulations noting that police who coerced defendants into confessing could be fired. Nonetheless, defendants who failed to show the "correct attitude" by confessing their crimes often received harsher sentences.

During the year, the conviction rate in criminal cases remained at approximately 90 percent, and trials generally were little more than sentencing hearings. In practice, criminal defendants often were not assigned an attorney until a case was brought to court. The best that a defense attorney generally could do in such circumstances was to get a sentence mitigated. In many politically sensitive trials, which rarely lasted more than several hours, the courts handed down guilty verdicts immediately following proceedings. There was an appeals process, but no statistics were available on the results of appeals. In practice, appeals rarely resulted in reversed verdicts.

The lack of due process was particularly egregious in death penalty cases. There were 65 capital offenses, including financial crimes such as counterfeiting currency, embezzlement, and corruption, as well as some other property crimes. A higher court nominally reviewed all death sentences, but the time between arrest and execution was often days and sometimes less, and reviews consistently resulted in the confirmation of sentences. Minors and pregnant women were expressly exempt from the death sentence. Tibetan Lobsang Dondrub was convicted of involvement in bombings in Sichuan Province without due process and executed the day after his appeal was rejected; despite assurances provided to diplomats that his case would be reviewed by the SPC, no review ever occurred (see Tibet Addendum). The Government regarded the number of death sentences it carried out as a state secret,

but officials stated that the number of executions carried out decreased during the year, with a faster rate of decrease in Beijing than in outlying provinces.

The 1997 Criminal Procedure Law falls short of international standards in many respects. For example, it has insufficient safeguards against the use of evidence gathered through illegal means, such as torture, and it does not prevent extended pre- and post-trial detention (see Section 1.c. and 1.d.). Appeals processes failed to provide sufficient avenue for review, and there were inadequate remedies for violations of defendants' rights. Furthermore, under the law, there is no right to remain silent, no right against double jeopardy, and no law governing the type of evidence that may be introduced. The mechanism that allows defendants to confront their accusers was inadequate; according to one expert, only 1 to 5 percent of trials involved witnesses. Accordingly, most criminal "trials" consisted of the procurator reading statements of witnesses whom neither the defendant nor his lawyer ever had an opportunity to question. Defense attorneys have no authority to compel witnesses to testify. Anecdotal evidence indicated that implementation of the Criminal Procedure Law remained uneven and far from complete, particularly in politically sensitive cases.

The Criminal Procedure Law gives most suspects the right to seek legal counsel shortly after their initial detention and interrogation; however, police often used loopholes in the law to circumvent defendants' right to seek counsel. Defendants in sensitive political cases frequently found it difficult to find an attorney. In some cases, defendants and lawyers in sensitive cases were not allowed to speak during trials. Even in non-sensitive trials, criminal defense lawyers frequently had little access to their clients or to evidence to be presented during the trial. Defendants in only one of every seven criminal cases had legal representation, according to credible reports citing internal government statistics. Government-employed lawyers still depended on official work units for employment, housing and other benefits, and therefore many were reluctant to represent politically sensitive defendants. The percentage of lawyers in the criminal bar reportedly declined from 3 percent in 1997 to 1 percent in 2001.

Some lawyers who tried to defend their clients aggressively continued to face serious intimidation and abuse by police and prosecutors. For example, according to Article 306 of the Criminal Law, defense attorneys could be held responsible if their clients commit perjury, and prosecutors and judges in such cases have wide discretion in determining what constitutes perjury. In December, prominent Beijing defense attorney Zhang Jianzhong was sentenced to 2 years in prison on charges of assisting in the fabrication of evidence in a major corruption case. Originally denied the right to counsel, Zhang had been detained since May 3, 2002. He was due to be released in May 2004 after receiving credit for the 19 months he served in jail without a conviction. Chinese legal scholars claimed he was singled out for being too effective at representing criminal defendants, and approximately 600 lawyers signed a petition, which was submitted to the Supreme People's Procuratorate and the Supreme People's Court, demanding that Zhang be found not guilty. According to the All-China Lawyers Association, since 1997 more than 400 defense attorneys have been detained on similar charges. In September, legal advisor Ma Wenlin asked the Shaanxi Provincial Higher People's Court to overturn his 1999 conviction for "disturbing social order" based on his representation of peasants in a lawsuit to reduce their tax burden. Ma was released early in May, after 4 years in prison. In August, lawyers' professional associations held a major conference on criminal defense law, continuing demands for better protection of lawyers and their legitimate role in the legal process.

In recent years, the Ministry of Justice (MOJ) drafted regulations to standardize professional performance, lawyer-client relations, and the administration of lawyers and law firms. The regulations set educational requirements for legal practitioners, encourage free legal services for the general public, grant lawyers formal permission to establish law firms, and provide for the disciplining of lawyers. A growing number of lawyers organized private law firms that were self-regulating and did not have their personnel or budgets determined directly by the State. More than 60 legal aid organizations, many of which handled both criminal and civil cases, have been established around the country, and the MOJ established a nationwide legal services hotline.

The Supreme People's Court, the Supreme People's Procuratorate, and the MOJ also have issued regulations establishing standards, including an examination, for judges and prosecutors, but those regulations are not uniformly enforced. Recent regulations also require judicial or prosecutorial appointees to be law school graduates with a minimum period of experience in legal practice. However, a great number of sitting judges and procurators continued to serve despite having little or no legal training.

During the year, Chinese and foreign lawyers, law professors, legal journals, and jurists publicly pressed for faster and more systemic legal reform. Among the suggested reforms were the introduction of a more transparent system of discovery, the abolition of coerced confessions, abolition of all forms of administrative detention, a legal presumption of innocence, an independent judiciary, improved administrative laws, and adoption of a plea bargaining system.

Government officials denied holding any political prisoners, asserting that authorities detained persons not for their political or religious views, but because they violated the law; however, the authorities continued to confine citizens for reasons related to politics and religion. Thousands of political prisoners remained incarcerated, some in prisons and others in labor camps. According to human rights organizations, more citizens were in prison for political crimes during the year than at any time since 1992. The Government did not grant international humanitarian organizations access to political prisoners.

Although the crime of "counterrevolution" was removed from the criminal code in 1997, western NGOs estimated that approximately 500–600 persons remained in prison for the crime. Hundreds of others were serving sentences under the State Security Law, which covers similar crimes as the repealed crime of counterrevolution. Persons detained for counterrevolutionary offenses included labor activists Hu Shigen and Liu Jingsheng; writer Chen Yangbin; Inner Mongolian activist Hada; and dissidents Han Chunsheng, Liang Qiang, Yu Zhijian, Zhang Jingsheng, and Sun Xiongying. These prisoners rarely were granted sentence reductions or parole. Foreign governments urged the Government to review the cases of those charged before 1997 with counterrevolution and to release those who had been jailed for non-violent offenses under the old statute. During the year, the Government held expert-level discussions with foreign officials on conducting such a review.

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

In January, the Government permitted the early release of political dissident Fang Jue, and, in March, Tibetan nun Ngawang Sandrol was allowed to leave the country. The Government also released a few other political prisoners after granting them sentence reductions, including Internet activist Qi Yanchen and labor activist Kang Yuchun. However, CDP co-founders Wang Youcai and Qin Yongmin; Internet activists Xu Wei, Yang Zili, and Huang Qi; Uighur businesswoman Rebiya Kadeer; journalist Jiang Weiping; labor activists Yao Fuxin, Xiao Yunliang, and Liu Jingsheng; Catholic Bishop Su Zhimin; house church leaders Zhang Yinan, Liu Fenggang and Xu Yonghai; Tibetan nun Phuntsog Nyidrol; Uighur historian Tohti Tunyaz; and political dissident Yang Jianli, among many others, remained imprisoned or under other forms of detention during the year. Political prisoners generally benefited from parole and sentence reduction at significantly lower rates than ordinary prisoners.

Criminal punishments could include "deprivation of political rights" for a fixed period after release from prison, during which the individual is denied the limited rights of free speech and association granted to other citizens. Former prisoners also sometimes found their status in society, ability to find employment, freedom to travel, and access to residence permits and social services severely restricted. Economic reforms and social changes have ameliorated these problems for nonpolitical prisoners in recent years. However, former political prisoners and their families frequently still were subjected to police surveillance, telephone wiretaps, searches, and other forms of harassment, and some encountered difficulty in obtaining or keeping employment and housing.

Officials confirmed that executed prisoners were among the sources of organs for transplant but maintained that consent was required from prisoners or their relatives in advance of the procedure. There was no national law governing organ donations, but a Ministry of Health directive explicitly states that buying and selling human organs and tissues is not allowed. On August 22, the first local law regulating organ donation was passed in Shenzhen. It requires all organ donations to be voluntary, prohibits the sale or trade of human organs, provides for fines of \$60,000 (RMB 500,000) for violations, and grants the Shenzhen Red Cross sole authority to match donors and recipients. However, the law was expected to have limited impact due to its limited geographical jurisdiction, covering just the Shenzhen Special Economic Zone. There were no reliable statistics on how many organ transplants occurred using organs from executed prisoners; however, anecdotal evidence, testimony of former officials and doctors, and the numbers of post-transplant patients seeking follow-up care in Western countries indicated that it is a significant number.

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

In urban areas, many persons depended on government-linked work units for housing, healthcare, and other aspects of ordinary life. However, the work unit and the neighborhood committee, which originally were charged with monitoring activities and attitudes, have become less important as means of social and political control, and government interference in daily personal and family life continued to decline for most citizens. In some areas, citizens still were required to apply for government permission before having a child, and the Government continued to restrict the number of births. During the year, the Government amended a regulation so that couples seeking to get married no longer require permission from their work units.

Cases of forced entry by police officers continued to be reported. However, after state media widely reported a police raid on the home of a married couple watching a legal adult movie in Shaanxi Province, police authorities asserted that private personal conduct not forbidden by law would no longer be subject to police interference. For this and other reasons, government officials, including Minister of Public Security Zhou Yongkang, emphasized in several public statements that police must do a better job of respecting citizens’ human rights. In October, the Third Party Plenum formally approved a constitutional amendment that will, if approved at the March 2004 session of the National People’s Congress, put the protection of individual rights into China’s constitution for the first time.

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

Major political events and visits by high-ranking foreign officials routinely sparked roundups of dissidents. For example, immediately before and after the 16th Party Congress in November 2002, authorities detained a number of activists who had signed an open letter calling for political reform and a reappraisal of the official verdict on the 1989 Tiananmen massacre (see Section 1.d.). Similarly, dissidents reported greater surveillance and harassment from public security officials during the National People’s Congress in March, before the June 4 anniversary of the Tiananmen crackdown, and before the October 1 National Day.

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

Official poverty alleviation programs and major state projects have included forced relocation of persons to new residences. The Government estimated that at least 1.2 million persons have been relocated for the Three Gorges Dam project on the Yangtze River.

Forced relocation because of urban redevelopment was common, sometimes resulting in protests over relocation terms or compensation. The case of Shanghai housing lawyer Zheng Enchong prompted significant public protest over urban relocation. In October, Zheng was sentenced to 3 years’ imprisonment in connection with his advocacy on behalf of hundreds of Shanghai residents displaced in a controversial urban redevelopment project. Legal proceedings in Zheng’s case prompted many demonstrations, including one planned to involve hundreds on National Day at Tiananmen Square. That protest was prevented by police. Many of the protesters were detained for short periods in Beijing and Shanghai. Some protest leaders were prosecuted and sentenced to reeducation through labor (see Sections 2.b. and 3).

The Population and Family Planning Law, the country’s first formal law on this subject, entered into force on September 1, 2002. The National Population and Fam-

ily Planning Commission (NPFPC) enforces the law and formulates and implements policies with assistance from the Birth Planning Association, which had 1 million branches nationwide. The law is intended to standardize the implementation of the Government's birth limitation policies; however, enforcement continued to vary from place to place. The law grants married couples the right to have a single child and allows eligible couples to apply for permission to have a second child if they meet conditions stipulated in local and provincial regulations. Many provincial regulations require women to wait 4 years or more after their first birth before making such an application. The law requires counties to use specific measures to limit the total number of births in each county. The law further requires couples to employ birth control measures. According to a September 2002 U.N. survey, the percentage of women who select their own birth control method grew from 53 percent in 1998 to 83 percent in 2000. The law requires couples who have an unapproved child to pay a "social compensation fee" and grants preferential treatment to couples who abide by the birth limits. Although the law states that officials should not violate citizens' rights, neither those rights nor the penalties for violating them are defined. The law provides significant and detailed sanctions for officials who help persons evade the birth limitations.

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

The one-child limit was more strictly applied in the cities, where only couples meeting certain conditions (e.g., both parents are only children) were permitted to have a second child. In most rural areas (including towns of under 200,000 persons), where approximately two-thirds of citizens lived, the policy was more relaxed, generally allowing couples to have a second child if the first was a girl or disabled. Ethnic minorities, such as Muslim Uighurs and Tibetans, were subject to much less stringent population controls (see Tibet Addendum). In remote areas, limits generally were not enforced, except on government employees and Party members. Local officials, caught between pressures from superiors to show declining birth rates, and from local citizens to allow them to have more than one child, frequently made false reports. The NPFPC estimated fertility at 1.8 births per woman, a figure roughly confirmed by the 2000 census. It claimed that the yearly growth rate of the population has dropped to less than 1 percent per year.

Authorities continued to reduce the use of targets and quotas, although over 1,900 of the country's 2,800 counties continued to use such measures. Authorities using the target and quota system require each eligible married couple to obtain government permission before the woman becomes pregnant. In many counties, only a limited number of such permits were made available each year, so couples who did not receive a permit were required to wait at least a year before obtaining permission. Counties that did not employ targets and quotas allowed married women of legal child-bearing age to have a first child without prior permission.

The country's population control policy relied on education, propaganda, and economic incentives, as well as on more coercive measures such as the threat of job loss or demotion and social compensation fees. Psychological and economic pressure were very common; during unauthorized pregnancies, women sometimes were visited by birth planning workers who used the threat of social compensation fees to pressure women to terminate their pregnancies. The fees were assessed at widely varying levels and were generally extremely high. Reliable sources reported that the fees ranged from one-half to eight times the average worker's annual disposable income. Local officials have authority to adjust the fees downward and did so in many cases. Additional disciplinary measures against those who violated the limited child policy by having an unapproved child or helping another to do so included the withholding of social services, higher tuition costs when the child goes to school, job loss or demotion, loss of promotion opportunity, expulsion from the Party (membership in which was an unofficial requirement for certain jobs), and other administrative punishments, including in some cases the destruction of property. These penalties sometimes left women little practical choice but to undergo abortion or sterilization. Rewards for couples who adhered to birth limitation laws and policies included monthly stipends and preferential medical and educational benefits. In the cases of families that already had two children, one of the parents was usually pressured to undergo sterilization.

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

ther require that women who use an IUD undergo quarterly exams to ensure that it remains properly in place. In another province, rules state that “unplanned pregnancies must be aborted immediately.” In some counties, women of childbearing age were required periodically to undergo pregnancy tests.

At the same time, the Government maintained that, due to economic development and other factors such as small houses, both parents working full-time, and high education expenses, couples in major urban centers often voluntarily limited their families to one child.

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

Central Government policy formally prohibits the use of physical coercion to compel persons to submit to abortion or sterilization. Because it is illegal, the use of physical coercion was difficult to document. A few cases were reported during the year, but most observers believed that the frequency of such cases was declining. In May, officials in Anhui Province who tried to force a woman to be sterilized were reprimanded after the woman informed national family planning officials that she knew it was her right under the law to choose her method of birth control.

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

Corruption related to social compensation fees reportedly decreased after the 2002 passage of State Council Decree 357, which established that collected “social compensation fees” must be submitted directly to the National Treasury rather than retained by local birth planning authorities. NPFPC officials reported in 2002 that they responded to more than 10,000 complaints against local officials.

In March, the U.N. Population Fund (UNFPA) concluded a 4-year pilot project in 32 counties. Under this program, local birth planning officials emphasized education, improved reproductive health services, and economic development, and they eliminated the target and quota systems for limiting births. However, these counties retained the birth limitation policy, including the requirement that couples employ effective birth control methods, and enforced it through other means, such as social compensation fees. Subsequently, 800 other counties also removed the target and quota system and tried to replicate the UNFPA project by emphasizing quality of care and informed choice of birth control methods. In April, a new UNFPA program began in 30 counties. Under this program, officials defined a list of “legitimate rights of reproduction according to law,” including the rights to choose contraception and right to legal remedies, among others.

In order to delay childbearing, the Marriage Law sets the minimum age at marriage for women at 20 years and for men at 22 years. It continued to be illegal in almost all provinces for a single woman to bear a child, and social compensation fees have been levied on unwed mothers. The Government stated that the practice of levying social compensation fees for “pre-marriage” births was abolished on an experimental basis in some counties during the year. In 2002, Jilin Province passed a law making it legal, within the limits of the birth limitation law, for an unmarried woman who “intends to remain single for life” to have a child.

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

ratio at 116.9 to 100 (as compared to the statistical norm of 106 to 100). For second births, the national ratio was 151.9 to 100.

The Maternal and Child Health Care Law requires premarital and prenatal examinations in part to determine whether couples have acute infectious diseases or certain mental defects or are at risk for passing on debilitating genetic diseases. The law states that abortion or sterilization are recommended in some cases. In practice, however, most regions of the country still did not have the medical capacity to determine accurately the likelihood of passing on debilitating genetic diseases.

Lack of informed consent was a general problem in the practice of medicine throughout the country.

As of 2001, the China Psychiatric Association no longer listed homosexuality as a mental illness. Many gays and lesbians saw the move as a hopeful sign of increased official tolerance. In major cities, gays and lesbians sometimes could gather publicly for social purposes, but societal discrimination caused most social gatherings to remain private.

Section 2. Respect for Civil Liberties, Including:

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

The Government continued to threaten, arrest, and imprison persons exercising free speech. Internet essayists in particular were targeted.

Many individuals were jailed for their Internet publications during the year. In January, Tao Haidong was sentenced in Urumqi, Xinjiang, to 7 years in prison for "incitement to subvert state power" based on articles on democracy he posted on the Internet. In May, Sichuan website manager Huang Qi, founder of a site for missing persons from the 1989 Tiananmen crackdown, was sentenced to 5 years in prison. Also in May, four students belonging to the New Youth Study Group—Yang Zili, Xu Wei, Jin Haike, and Zhang Honghai—who used the Internet to circulate articles on political and social topics received sentences of 8 to 10 years for subversion. Their appeal to the Supreme People's Court was denied in November. Three of the four witnesses who testified against them at trial recanted their stories, but the SPC refused to hear testimony from these witnesses on appeal. In October, Internet essayist Luo Yongzhong from Jilin Province was sentenced to 3 years in prison after publishing articles on overseas websites calling for democracy and human rights. On October 29, Internet writer Du Daobin in Hubei Province was detained and later charged with distributing articles that "subverted state power." At year's end, he was awaiting trial. The legal credentials of Du's attorney were cancelled because he agreed to represent Du. In November, Beijing Normal University student Liu Di, website publisher Li Yibin, and Wu Yiran were released on bail after a year in detention. The court returned their file to prosecutors because of insufficient evidence but sentenced their alleged confederate Jiang Lijun to 4 years in prison for subversion. On December 8, Xian teacher Yan Jun was sentenced to 2 years for subversion based on his Internet postings. On December 10, Sichuan local government official Li Zhi was sentenced to 8 years for subversion in connection with his on-line writings about corruption and democracy. Sichuan Internet writer Ouyang Yi has been detained since December 2002 on charges of incitement to subvert state power. He was tried on October 15, but no verdict in his case was issued by year's end. In December, factory worker Kong Youping was detained for posting political articles and poems on the Internet. The NGO Reporters Without Borders reported that, between November 1 and December 15 alone, 9 persons were convicted and sentenced to prison terms of 2 to 10 years in jail for putting messages critical of the Government on the Internet. The group named China "the biggest jail in the world for cyberdissidents," stating that the country has jailed 48 persons for their Internet writing in recent years.

Journalists who reported on sensitive topics also continued to suffer harassment, detention, and imprisonment. For example, South Korean photojournalist Seok Jae Hyun was imprisoned in January while photographing North Korean refugees trying to board boats headed for South Korea and Japan (see Section 2.d.). In May, he was sentenced to 2 years in prison. Reporter Jiang Weiping, who had written a series of articles exposing official corruption in Liaoning Province, remained in prison, although his sentence was reduced from 8 to 6 years. The Committee to Protect Journalists again assessed China as “the world’s leading jailer of journalists,” with 39 journalists imprisoned at year’s end.

Some Chinese remained active and continued to speak out, despite the Government’s restrictions on freedom of speech. For example, in April, Dr. Jiang Yanyong disclosed that the spread of SARS in Beijing, particularly in military hospitals, had been significantly under-reported. This disclosure ultimately contributed to broader acknowledgment of the extent of the spread of SARS. In June, scholar Cao Siyuan convened a symposium that proposed constitutional amendments to establish a Constitutional Court, incorporate human rights, provide “freedom of speech, publication, and association without pre-approval,” and to allow direct elections. While neither person was formally detained, both were followed by public security officials and at times forbidden from contact with foreigners or the media.

There were a few privately owned print publications, but they were subject to pre- and post-publication censorship. There were no privately owned television or radio stations, and all programming had to be approved by the Government.

The Communist Party continued to control tightly media and academic discussion of many political topics. In March, reporting about the National People’s Congress was strictly controlled, and the Beijing newspaper 21st Century World Herald was closed for publishing articles on political reform deemed too controversial. In June, the weekly newspaper Beijing Xinbao was closed and its editors fired after it published an article that mocked Party officials. In July, the Government issued a directive known as “The Three Forbiddens.” According to western media reports, it banned open discussion of constitutional reform, political reform, and reconsideration of the June 4, 1989 Tiananmen movement. More broadly, in a June meeting, the Communist Party’s Propaganda Department advised all media to avoid the following sensitive topics: Dr. Jiang Yanyong’s communication with foreigners about SARS, the Sun Zhigang case (see Section 1.c.), corruption cases against Shanghai-based businessman Zhou Zhengyi and Chinese/Dutch national Yang Bin, an April submarine accident that killed all 70 sailors on board, and nuclear weapons in the DPRK.

Censorship related to SARS was particularly controversial. On February 11, Guangzhou municipal authorities held a press conference announcing over 300 SARS cases in Guangzhou. Afterward, from February through April, domestic news outlets were prohibited from discussing the disease. Reporting about the causes and extent of SARS was also strictly controlled. For example, in February, Guangdong Province’s Southern Metropolitan Daily newspaper was sanctioned for publishing articles that contradicted the Government line that SARS was caused by the chlamydia virus. On April 14, the Government publicly acknowledged that the SARS epidemic was more serious than previously admitted, and it punished some officials for underreporting SARS cases. Some hailed this as a new sign of openness by the Government. The Government held live televised press conferences to answer questions about SARS. However, newspapers and magazines whose reporting on SARS exceeded limits set by government censors continued to face closure and other sanctions. The June 20 edition of *Caijing*, an influential business news magazine, was withdrawn from newsstands. It contained an article on the impact of SARS and another on a bank loan scandal linked to Government officials. *Caijing*’s previous edition had published an interview with SARS informant Dr. Jiang Yanyong.

Discussion of corruption also was tightly controlled. Newspapers could not report on corruption without government and Party approval, and publishers published such material at their own risk. In recent years, journalists and sometimes editors have been harassed, detained, threatened, and even imprisoned for reporting on subjects that met with the Government’s or local authorities’ disapproval, including corruption. During the year, journalists and editors who exposed corruption scandals frequently faced problems with the authorities, and the Government continued to close publications and punish journalists for printing material deemed too sensitive.

Government restrictions on the press and the free flow of information continued to prevent accurate reporting on the spread of HIV/AIDS. This problem was particularly acute in Henan Province. Henan health official Ma Shiwen was detained for several months before his release in October. Ma had allegedly provided information to NGOs about villagers who became infected with HIV after selling blood (see Sec-

tion 1.d.). Henan provincial officials attempted to prevent 77-year-old Dr. Gao Yaojie, an advocate for AIDS orphans, from attending an AIDS forum at Beijing's Qinghua University in November.

For several years, journalists openly have called for legislation granting press freedom protection, without success. New regulations reported during the year required government officials to accept supervision by the media and public on all matters except those involving state security.

The Government kept tight control over the foreign press during the year and continued efforts to prevent foreign media "interference" in internal affairs. The international edition of Time Magazine has been banned since an article appeared in 2001 on the Falun Gong.

The publishing industry consists of three kinds of book businesses: approximately 560 government-sanctioned publishing houses, smaller independent publishers that cooperated with official publishing houses to put out more daring publications, and an underground (illicit) press. The government-approved publishing houses were the only organizations legally permitted to print books. The Communist Party exerted control over the publishing industry by preemptively classifying certain topics as off-limits; selectively rewarding with promotions and perks those publishers, editors, and writers who adhered to Party guidelines; and punishing those who did not adhere to Party guidelines with administrative sanctions and blacklisting. Some independent publishers took advantage of a loophole in the law to sign contracts with government publishing houses to publish politically sensitive works. These works generally were not subjected to the same multi-layered review process as official publications of the publishing houses.

Underground printing houses have been targets of periodic campaigns to stop all illegal publications (including pornography and pirated computer software and audiovisual products). These campaigns had the effect of restricting the availability of politically sensitive books. State-run media reported that over 300,000 pirated or pornographic books were destroyed in a public event held in July in Beijing.

Many intellectuals and scholars, anticipating that books or papers on political topics would be deemed too sensitive to be published, exercised self-censorship. Overt intervention by the State Press and Publications Administration and Party Propaganda Department mostly occurred after publication. In areas such as economic policy or legal reform, there was far greater official tolerance for comment and debate. Criticism of Central Government authorities continued to remain largely off-limits. Among books banned during the year were a new biography of former Premier Zhou Enlai, "The True Face of China's June Fourth," and "The Destruction of China." Books once published legitimately and circulated widely, such as "I Tell the Truth to the Premier," a controversial indictment of the Party's rural policies, were reportedly ordered off shelves during the year. In March 2002, the Department of Cultural Affairs in Urumqi, Xinjiang, ordered the destruction of thousands of books on Uighur history and culture. The books detailing and documenting Uighur history originally had been published with the approval of the authorities. Content about the Tiananmen Square student movement and the Dalai Lama, among other passages, was censored in U.S. Senator Hillary Clinton's book, "Living History." Chinese publishers reported that increasing commercialization of their industry led to tension between ideological constraints and market imperatives.

In June, the Government ended the practice of forcing government work units to subscribe to official newspapers, forcing many official newspapers to compete for readership or face insolvency.

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

The Government prohibited some foreign and domestic films from appearing in the country. Television broadcasts of foreign programming, which largely were restricted to hotel and foreign residence compounds, also suffered from occasional censorship of topics including sensitive political issues and SARS.

The Government continued to encourage expanded use of the Internet; however, it also took steps to increase monitoring of the Internet and continued to place restrictions on the information available. While only a very small percentage of the population accessed the Internet, use among intellectuals and opinion leaders was

widespread and growing rapidly. Young persons, both urban and rural, accounted for the greatest number of Internet users. According to a quasi-government report, the number of Internet users at the end of 2002 was 59.1 million. During the year, industry officials estimated the number of users at 80–100 million, with only 27 percent of those in the urban centers of Beijing, Shanghai, and Guangzhou.

China's Internet control system employed more than 30,000 persons and was allegedly the largest in the world. According to a 2002 Harvard University report, the Government blocked at least 19,000 sites during a 6-month period and may have blocked as many as 50,000. At times, the Government blocked the sites of some major foreign news organizations, health organizations, educational institutions, Taiwanese and Tibetan businesses and organizations, religious and spiritual organizations, democracy activists, and sites discussing the June 4 Tiananmen massacre. The number of blocked sites appeared to increase around major political events and sensitive dates. The authorities reportedly began to employ more sophisticated technology enabling the selective blocking of specific content rather than entire websites in some cases. Such technology was also used to block e-mails containing sensitive content. The Government generally did not prosecute citizens who received dissident e-mail publications, but forwarding such messages to others sometimes did result in detention. Internet usage reportedly was monitored at all terminals in public libraries.

The Ministry of Information Industry regulated access to the Internet while the Ministries of Public and State Security monitored its use. Regulations prohibit a broad range of activities that authorities have interpreted as subversive or as slanderous to the state, including the dissemination of any information that might harm unification of the country or endanger national security. Promoting "evil cults" was banned, as was providing information that "disturbs social order or undermines social stability." Internet service providers (ISPs) were instructed to use only domestic media news postings, record information useful for tracking users and their viewing habits, install software capable of copying e-mails, and immediately end transmission of so-called subversive material. Many ISPs practiced extensive self-censorship to avoid transgressing the very broadly worded regulations. A study released in May by Reporters Without Borders reported that only 30 percent of messages with "controversial content" were allowed onto Chinese "chatroom" websites. The remaining 70 percent of messages were filtered out by censors or removed by the site host.

The State Council has promulgated a comprehensive list of prohibited Internet activities, including using the Internet to "incite the overthrow of the Government or the Socialist system" and to "incite division of the country, harming national unification."

In addition to imprisoning several persons during the year for disseminating information through the Internet, the Government detained several individuals for using the Internet to express support for other detained Internet activists. NGOs reported that several people were detained during the year for expressing support for detained Beijing Normal University Internet writer Liu Di. Those detained for expressing on-line support for Liu included Kong Youping, Yuan Langsheng, Cai Lujun, Luo Changfu, and a 17-year old Henan girl identified only as Zheng. Liu Di's case sparked this reaction because she herself was detained for expressing sympathy for another Internet activist, Sichuan website manager Huang Qi. In November, Liu was released on bail after a court found that the evidence against her was insufficient; however, some persons detained for supporting her remained in custody at year's end (see Section 1.d.).

In 2002, the Government began a "Public Pledge on Self Discipline for China's Internet Industry" drive. More than 300 companies signed up, including the popular Sina.com and Sohu.com, as well as foreign-based Yahoo!'s China division. Those who signed the pledge agreed not to spread information that "breaks laws or spreads superstition or obscenity." They also promised to refrain from "producing, posting, or disseminating pernicious information that may jeopardize state security and disrupt social stability."

In 2002, the country had more than 200,000 Internet cafes. In response to the health crisis caused by SARS, the authorities closed all of the nation's Internet cafes on April 27. Beijing cafes stayed closed until August, while cafes in Shanghai and Sichuan reopened sooner.

During the year, the Government announced new plans to censor simple messaging system text messages distributed by mobile telephone. The country's largest service provider, China Mobile, reported in July that its customers sent an estimated 40 billion text messages in 2002.

The Government did not respect academic freedom and continued to impose ideological controls on political discourse at colleges, universities, and research insti-

tutes. Scholars and researchers reported varying degrees of control regarding issues they could examine and conclusions they could draw. For example, several professors were warned against calling for abolition of reeducation through labor after the beating death of inmate Zhang Bin (see Section 1.c.). Participants at a June conference on constitutional reform faced harassment by public security officials. Government decrees, such as the “three forbiddens,” significantly interfered with academic freedom. Scholar Xu Zerong remained in prison for “illegally providing state secrets” by sending sensitive reference materials on the Korean War to a contact in Hong Kong.

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

Researchers residing abroad also have been subject to sanctions from the authorities when their work did not meet with official approval.

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

At times, police used excessive force against demonstrators. Demonstrations with political or social themes were often broken up quickly and violently. The most widely publicized demonstrations in recent years were those of the Falun Gong spiritual movement. The Government continued to wage a severe political, propaganda, and police campaign against the Falun Gong movement. Since the Government banned the Falun Gong in 1999, mere belief in the discipline, without any outward manifestation of its tenets, has been sufficient grounds for practitioners to receive punishments ranging from loss of employment to imprisonment, and in many cases, to suffer torture and death (see Sections 1.a. and 2.c.). In many cases, Falun Gong practitioners were subject to close scrutiny by local security personnel, and their personal mobility was tightly restricted, particularly at times when the Government believed public protests were likely.

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

In many cases, the authorities dealt with demonstrations about economic issues more leniently than with those that addressed political issues, but some economic demonstrations were dispersed by force. During the year, Ministry of Public Security publications indicated that the number of demonstrations was growing and that protesters were becoming more organized. Some of these demonstrations included thousands of participants.

The vast majority of legal and illegal demonstrations that occurred during the year concerned economic and social issues such as housing, health, and welfare. Labor protests over the downsizing of SOEs and resulting unemployment in the country’s northeastern provinces continued but were smaller in scale than in 2002. However, protests by workers seeking unpaid wages continued throughout the country, including among migrant laborers and construction workers who often were paid in one installment before Chinese New Year and who demonstrated when employers withheld their salaries or underpaid them (see Section 6.b.). In May, labor leaders Yao Fuxin and Xiao Yunliang received prison sentences of 7 and 4 years, respectively, for their roles in leading large 2002 protests by factory workers demanding backpay and other benefits (see Section 6.b.). The Government denied requests by Liaoyang workers for a permit to protest Yao and Xiao’s imprisonment. In April, some 200 persons reportedly protested the construction of a hospital for quarantining SARS patients between Beijing and Tianjin municipalities. Similar protests over SARS quarantine hospitals were reported in other provinces, with some resulting in arrests. Protests by persons with HIV/AIDS occurred in Henan Province and other central provinces and were sometimes met with violence or arrests. On May 17, 100 AIDS patients protested lack of health care in Wenlou village hospital and at least one protester reportedly was severely beaten. In June, after a few HIV/AIDS protesters were detained in Xiongqiao village, Henan Province, hundreds of police officers reportedly were sent into the village, where they beat

several protesters and detained over a dozen others. The scope of police reaction produced widespread international concern. Demonstrations of over 100 persons protesting property relocation resulted in arrests in Shanghai. On August 28, in Shanghai, over 200 persons demonstrated to protest the trial of attorney Zheng Enchong, who represented residents dislocated in an urban relocation scheme. The demonstration reportedly resulted in arrests when police sought to disperse the crowd. Before National Day on October 1, security officials briefly detained more than 80 persons for their plans to participate in a Tiananmen Square protest about urban development and the relocation of residents.

The Constitution provides for freedom of association; however, the Government restricted this right in practice. Communist Party policy and government regulations require that all professional, social, and economic organizations officially register with, and be approved by, the Government. Ostensibly aimed at restricting secret societies and criminal gangs, these regulations also prevent the formation of truly autonomous political, human rights, religious, spiritual, environmental, labor, and youth organizations that might directly challenge government authority. Since 1999, all concerts, sports events, exercise classes, or other meetings of more than 200 persons require approval from Public Security authorities.

No laws or regulations specifically govern the formation of political parties. The Government continued to use surveillance, detention, and prison terms to suppress the CDP (see Section 3).

According to government statistics, at the end of 2002, there were approximately 133,000 social organizations, including 1,712 national-level and cross-provincial organizations, 20,069 provincial organizations, and 52,386 local and county-level organizations registered with the Ministry of Civil Affairs. There were 111,000 private, nonprofit corporations registered. Experts estimated that there were at least 1 million, and perhaps as many as 2 million, unregistered NGOs. Although these organizations all came under some degree of government control, some were able to develop their own agendas. Some had support from foreign secular and religious NGOs. Some were able to undertake limited advocacy roles in such public interest areas as women's issues, the environment, health, and consumer rights. NGOs were required to register with the Government, which has 2 months in which to grant approval. To register, an NGO must obtain an organizational sponsor, have an official office, and hold a minimal amount of funds (for local-level NGOs, at least \$3,600 (RMB 30,000); for national-level groups, at least \$12,000 (RMB 100,000)). According to government guidelines, NGOs must not advocate non-party rule, damage national unity, or upset ethnic harmony. Groups that disobeyed guidelines and unregistered groups that continued to operate could face administrative punishment or criminal charges. During the year, the Beijing Municipal Civil Affairs Bureau ordered 51 organizations to close for failure to register. It was difficult to estimate how many groups may have been discouraged from organizing NGOs because of these regulations. However, preexisting groups reported little or no additional interference by the Government since NGO registration regulations came into effect in 1998.

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

Overall, government respect for religious freedom remained poor. Even though freedom to participate in religious activity increased in many areas of the country, crackdowns in some locations against unregistered groups, including underground Protestant and Catholic groups; Muslim Uighurs; and Tibetan Buddhists (see Tibet Addendum) continued. The Government continued its repression of groups that it determined to be “cults” and of the Falun Gong spiritual movement in particular. During the SARS crisis, the Government arrested hundreds of Falun Gong adherents and others whom it accused of preaching doomsday messages and disrupting anti-SARS activity. The atmosphere created by the nationwide campaign against Falun Gong reportedly had a spillover effect on unregistered churches, temples, and mosques in many parts of the country.

All religious groups and spiritual movements were required to register with the State Administration for Religious Affairs (SARA, formerly known as the central Religious Affairs Bureau) or its provincial and local offices (still known as Religious Affairs Bureaus (RABs)). SARA and the RABs were responsible for monitoring and

judging the legitimacy of religious activity. SARA and the Communist Party's United Front Work Department provided policy "guidance and supervision" over implementation of government regulations on religious activity. In December 2001, all members of the Politburo Standing Committee attended a Party Work Conference on religion at which then-President Jiang Zemin and then-Premier Zhu Rongji gave speeches praising the social work being done by numerous religious institutions. They urged "mainstream" religious groups to register with the Government and, at the same time, called for stepped-up measures to eliminate "non-mainstream" religious groups.

This national campaign to require religious groups and places of worship to register or to come under the supervision of official "patriotic" religious organizations continued and, in some places, intensified during the year. Some groups registered voluntarily, some registered under pressure, some avoided officials in an attempt to avoid registration, and authorities refused to register others. Some unofficial groups reported that authorities refused them registration without explanation. The Government contended that these refusals were mainly the result of failure to meet requirements concerning facilities and meeting spaces. Many religious groups were reluctant to comply with the regulations out of principled opposition to state control of religion or due to fear of adverse consequences if they revealed, as required, the names and addresses of church leaders and members.

However, in some areas, supervision of religious activity was minimal, and registered and unregistered churches were treated similarly by authorities. Coexistence and cooperation between official and unofficial churches, both Catholic and Protestant, in such areas were close enough to blur the line between the two. In some areas, congregants worshiped in both types of churches. In others, underground churches procured Bibles with the help of colleagues in registered churches. In many areas, small house churches and "family" churches were generally tolerated by the authorities, so long as they remained small and unobtrusive. Some of these churches reportedly encountered difficulty when their memberships became too large, when they arranged for the use of facilities for the specific purpose of conducting religious activities, or when they forged links with other unregistered groups or when links with overseas organizations came to light. Official churches also sometimes have faced harassment when local authorities wished to acquire the land on which a church was located. In addition to refusing to register churches, in recent years there have been reports that RAB officials demanded illegal "donations" from churches in their jurisdictions in order to raise revenue.

Leaders of unauthorized groups were sometimes the targets of harassment, interrogation, detention, and physical abuse. Police closed scores of "underground" mosques, temples, seminaries, Catholic churches, and Protestant "house churches," including many with significant memberships, properties, financial resources, and networks. Authorities particularly targeted unofficial religious groups in locations where there were rapidly growing numbers of unregistered churches, or in places of long-seated conflict between official and unofficial churches, such as with Catholics in Baoding, Hebei Province, and Chengde, Fujian Province.

The Government intensified pressure against Protestant house churches and their leaders during the year. In April and May, Protestant house churches in Anshan, Liaoning Province, reportedly were raided and worshippers detained. In June, six house churches in locations across the Inner Mongolia Autonomous Region were reportedly closed by authorities and their leaders detained. In June, underground Christians in Funing County, Yunnan Province, were detained for several days after they attended a meeting with local officials to ostensibly discuss registration. Also in June, an unofficial seminary in Kunming, Yunnan Province, was closed and some of the students were detained. In September, house church historian Zhang Yinan and legal advisor to the South China Church Xiao Biguang were among approximately 100 Christians detained in Nanyang, Henan Province. While Xiao was released a month later, Zhang was sentenced to 2 years of reeducation through labor. He was reportedly beaten in the camp. In October, Beijing-based house Christian Liu Fenggang was detained in Xiaoshan, Zhejiang Province, for conducting an investigation into reports of church demolitions and detention of leaders in the Local Assembly ("Little Flock") church. In July, a large church was reportedly closed by police; many worshippers were detained briefly and church leaders were "invited to attend a seminar" for a number of days before being permitted to return home. Liu was charged with illegally providing state secrets to foreign entities, a charge activists believe was related to Liu's providing information about his investigation to overseas NGOs. Beijing police also seized Liu's computer equipment and files. Two other house Christians, Beijing homeless advocate Dr. Xu Yonghai and Jilin Internet writer Zhang Shengqi, also remained detained at year's end, allegedly for supporting Liu.

A number of Catholic priests and lay leaders also were beaten or otherwise abused during the year. For example, underground Catholic officials in Fujian and Jiangxi provinces were harassed and detained in April and May. On June 16, a priest in Wenzhou, Zhejiang Province, was detained while preparing to administer sacraments to a dying Catholic. In Hebei Province, where approximately half of the country's Catholics reside, friction between unofficial Catholics and local authorities continued. Hebei authorities have forced many underground priests and believers to choose between joining the Patriotic Church or facing fines, job losses, periodic detentions, and, in some cases, the removal of their children from school. Some Catholics have been forced into hiding. In July, five underground clergy in Baoding, Hebei Province, reportedly were detained when they attempted to visit a priest recently released from reeducation through labor. Reliable sources also reported that Bishop An Shuxin, Bishop Zhang Weizhu, Father Cui Xing, and Father Wang Qunjun remained detained in Hebei Province. Underground Bishop Su Zhimin, who had been unaccounted for since his reported detention in 1997, was reportedly hospitalized in November for treatment of eye and heart ailments in Baoding, Hebei Province. Reports suggest that he had been held in a form of "house arrest" until his illness required hospitalization. Authorities sometimes used house arrest against religious leaders to avoid going through the official security and justice systems. The Government continued to deny any knowledge of Bishop Su's whereabouts or health condition and claimed that it had not taken any "coercive measures" against him.

Authorities also have destroyed or seized unregistered places of worship. On June 6, a church in Xiaoshan, Zhejiang Province, was torn down, although local officials maintain the demolition occurred for zoning reasons. On September 10, a church in Wenzhou, Zhejiang, was reportedly torn down because it was used to hold illegal gatherings. Visitors to Xinjiang Autonomous Region also reported that mosques have been destroyed, although some attributed the demolition as much to inter-religious conflict between Hui and Uighur Muslims as to Government antagonism. Leaders of the official Christian church reported mixed success in regaining use of Church property confiscated by the Government shortly after the 1949 Communist revolution.

The Government continued to restore or rebuild some churches, temples, mosques, and monasteries damaged or destroyed during the Cultural Revolution and allowed the reopening of some seminaries during the year. The number of restored and rebuilt temples, churches, and mosques remained inadequate to accommodate the recent increase in religious believers. The difficulty in registering new places of worship led to serious overcrowding in existing places of worship in some areas. Some observers cited the lack of adequate meeting space in registered churches to explain the rapid rise in attendance at house churches and "underground" churches.

The law does not prohibit religious believers from holding public office; however, most influential positions in government were reserved for Party members, and Party officials stated that Party membership and religious belief are incompatible. Party membership also was required for almost all high-level positions in government and in state-owned businesses and organizations. The Party reportedly issued circulars ordering Party members not to adhere to religious beliefs. The Routine Service Regulations of the People's Liberation Army state explicitly that servicemen "may not take part in religious or superstitious activities." Party and PLA personnel have been expelled for adhering to Falun Gong beliefs. In November, an international company that employs over 100,000 women in the country reported that it had revised its Chinese sales force agreement to remove an explicit ban on Falun Gong members.

Despite official regulations encouraging officials to be atheists, in some localities as many as 25 percent of Party officials engaged in some kind of religious activity. Most of these officials practiced Buddhism or a folk religion. The National People's Congress (NPC) included several religious representatives. Two of the NPC Standing Committee's vice chairmen are Fu Tieshan, a bishop and vice-chairman of the Chinese Catholic Patriotic Association, and Pagbalha Geleg Namgyai, a Tibetan "reincarnate lama." Religious groups also were represented in the Chinese People's Political Consultative Conference, an advisory forum for "multiparty" cooperation and consultation led by the CCP, and in local and provincial governments. During the year, Director of the State Administration for Religious Affairs Ye Xiaowen publicly emphasized that the guiding "Three Represents" ideology includes serving the interests of "the more than 100 million persons with religious beliefs." In a widely reported July speech, he stated that "upholding the propaganda and education on atheism and upholding the policy on freedom of religious belief are both correct and necessary."

The authorities permitted officially sanctioned religious organizations to maintain international contacts that did not involve "foreign control"; what constitutes "con-

tol" was not defined. Regulations ban proselytizing by foreigners. For the most part, authorities allowed foreign nationals to preach to foreigners in approved, registered places of worship, bring in religious materials for personal use, and preach to citizens at churches, mosques, and temples at the invitation of registered religious organizations. Collective religious activities of foreigners also were required to take place at officially registered places of worship or approved temporary locations. Foreigners legally were barred from conducting missionary activities, but many foreign Christians teaching English and other subjects on college campuses openly professed their faith with minimum interference from authorities.

Many Christian groups throughout the country have developed close ties with local officials, in some cases running schools to help educate children who otherwise would receive a substandard education and operating homes for the care of the aged. Likewise, Buddhist-run private schools and orphanages in the central part of the country not only educated children but also offered vocational training courses to teenagers and young adults.

Official religious organizations administered local religious schools, seminaries, and institutes to train priests, ministers, imams, Islamic scholars, and Buddhist monks. Students who attended these institutes had to demonstrate "political reliability," and all graduates must pass an examination on their political as well as theological knowledge to qualify for the clergy. The Government permitted limited numbers of Catholic and Protestant seminarians, Muslim clerics, and Buddhist clergy to go abroad for additional religious studies. In most cases, funding for these training programs was provided by foreign organizations.

Both official and unofficial Christian churches had problems training adequate numbers of clergy to meet the needs of their growing congregations. No priests or other clergy in the official churches were ordained between 1955 and 1985, creating a severe shortfall in certain age groups. Due to government prohibitions, unofficial churches had particularly significant problems training clergy or sending students to study overseas, and many clergy received only limited and inadequate preparation. Members of the underground Catholic Church, particularly clergy wishing to further their studies abroad, found it difficult to obtain passports and other necessary travel documents (see Section 2.d.). Some Catholic clerics also complained that they were forced to bribe local RAB officials before being allowed to enter seminaries.

Traditional folk religions, such as the "Mazu cult" in Fujian Province, which is based on a legend, were still practiced in some locations. They were tolerated to varying degrees, often seen as loose affiliates of Taoism or as ethnic minority cultural practices. However, at the same time, folk religions have been labeled as "feudal superstition" and sometimes were repressed because their resurgence was seen as a threat to Party control. In recent years, local authorities have destroyed thousands of shrines; however, there were no reports of such destruction during the year.

Buddhists made up the largest body of organized religious believers. The traditional practice of Buddhism continued to expand among citizens in many parts of the country. Tibetan Buddhists in some areas outside of the TAR had growing freedom to practice their faith. However, some Government restrictions remained, particularly in cases in which the Government interpreted Buddhist belief as supporting separatism, such as in some Tibetan areas and parts of the Inner Mongolian Autonomous Region. Visits by official emissaries of the Dalai Lama and also by his brother, which occurred in July and September 2002, continued when Lodi Gyari and Kelsang Gyaltzen, the Dalai Lama's representatives to the United States and Europe, respectively, made a second trip to the country in June. They met with officials and visited Shanghai, Beijing, and Tibetan areas in Yunnan Province (see Tibet Addendum).

Regulations restricting Muslims' religious activity, teaching, and places of worship continued to be implemented forcefully in Xinjiang. Authorities reportedly continued to prohibit the teaching of Islam to children under the age of 18 in areas where ethnic unrest has occurred and reserved the right to censor imams' sermons, particularly during sensitive religious holidays. For example, an independent imam in Kunming, Yunnan Province, was forced by the local patriotic association to stop preaching after he began to draw large crowds. Authorities believed his sermons were too fundamentalist in tone. In Xinjiang, authorities also treated fundamentalist Muslim leaders particularly harshly. In 2000, the authorities began conducting monthly political study sessions for religious personnel; the program reportedly continued during the year. The authorities also continued in some areas to discourage overt religious attire such as veils and to discourage religious marriage ceremonies. In addition, in some areas, fasting reportedly was prohibited or made difficult during Ramadan. There were numerous official media reports that the au-

thorities confiscated illegal religious publications in Xinjiang. The Xinjiang People's Publication House was the only publisher allowed to print Muslim literature in Xinjiang, and stores reported that those selling literature not included on Government lists of permitted items risked closure.

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

The Government permitted Muslim citizens to make the Hajj to Mecca and in some cases subsidized the journey. In 2002, approximately 2,000 persons were permitted to make the Hajj with government-organized delegations, while up to an additional 2,000 privately organized Hajjis went on their own after securing government approval. Other Muslims made the trip to Mecca via third countries. Uighur Muslims reportedly had greater difficulty getting permission to make the Hajj than other Muslim groups, such as Hui Muslims. Factors limiting Chinese Muslims' participation in the Hajj included costs and controls on passport issuance.

There were no diplomatic relations between the Government and the Holy See, although foreign Catholic officials visited during the year. While both Government and Vatican authorities stated that they would welcome an agreement to normalize relations, issues concerning the role of the Pope in selecting bishops and the status of underground Catholic clerics have frustrated efforts to reach this goal. Some bishops in the official Catholic Church were not openly recognized by the Holy See, although many have been recognized privately. Frequently, bishops were first consecrated and later sought Papal approval of their consecrations, sometimes secretly, causing tensions between the Government and the Vatican. Newly nominated bishops seeking unofficial Papal approval frequently found themselves at odds with other church leaders, who were sympathetic to the Central Government and who insisted that consecrations of new bishops be conducted by more senior bishops not recognized by the Vatican. Catholic priests in the official church also faced dilemmas when asked by parishioners whether they should follow Church doctrine or government policy restricting the number of children per family. This dilemma was particularly acute when discussing abortion.

Government relations with the unofficial Catholic Church worsened somewhat. After the July 1 demonstration in Hong Kong against legislation on Article 23 of the Basic Law, the Government was stricter toward the underground Catholic Church, in part because the Government accused Hong Kong Catholic leader Bishop Joseph Zen of having a negative influence on his mainland coreligionists. The Government's refusal to allow the official Catholic Church to recognize the authority of the Papacy in matters such as the ordination of bishops led many Catholics to refuse to join the official Catholic Church on the grounds that this refusal denies one of the fundamental tenets of their faith.

There were no new reports of Nanjing Seminary professors or Protestant preachers purged for theological perspectives different from those held by Bishop Ding Guangxun, national leader of the official Protestant church. Foreign teachers were officially invited to teach at both Catholic and Protestant seminaries during the year.

The increase in the number of Christians resulted in a corresponding increase in the demand for Bibles, which were available for purchase at most officially recognized churches. Although the country had only one government-approved publisher of Bibles and distribution had been a problem, the shortage of Bibles in previous years appeared largely to have abated. Customs officials continued to monitor for the "smuggling" of Bibles and other religious materials into the country, but there were no new cases of significant punishments for Bible importation. There were credible reports that the authorities sometimes confiscated Bibles and other religious material in raids on house churches.

Weekly services of the foreign Jewish community in Beijing have been held uninterrupted since 1995, and High Holy Day observances have been allowed for more than 15 years. The Shanghai Jewish community was allowed to hold services in an historic Shanghai synagogue, which has been restored as a museum. Local authorities indicated that the community could use the synagogue in the future for special occasions on a case-by-case basis.

The Church of Jesus Christ of Latter-Day Saints meets regularly in a number of cities, but its membership was strictly limited to the expatriate community.

Requests by expatriate Protestant churches for permission to allow local Chinese to attend their services were rejected by the Government. Foreign Protestant mis-

tionaries, including several in Guangzhou, were expelled during the year. The Government claimed that those expelled had violated Chinese law.

Authorities singled out groups they considered to be “cults” for particularly severe treatment. These “cults” included not only Falun Gong and various traditional Chinese meditation and exercise groups (known collectively as “qigong” groups), but also religious groups that authorities accused of preaching beliefs outside the bounds of officially approved doctrine. For example, police continued their efforts to close down an underground evangelical group called the “Shouters,” an offshoot of a pre-1949 indigenous Protestant group. The Government continued a general crackdown on such groups, including Eastern Lightning, the Association of Disciples, the Full Scope Church, the Spirit Sect, the New Testament Church, the Way of the Goddess of Mercy, the Lord God Sect, the Established King Church, the Unification Church, and the Family of Love. Authorities accused some in these groups of lacking proper theological training, preaching the imminent coming of the Apocalypse or holy war, or exploiting the reemergence of religion for personal gain.

Actions against such groups continued during the year. For example, police in January reportedly arrested over 100 members of the All-Scope Church in Henan Province and accused them of being a “doomsday cult.” In February 2002, three members of the Blood and Water Holy Spirit Full Gospel Preaching Team were sentenced to 7 years in prison for “using a cult organization to violate the law” in Xiamen, Fujian Province. In December 2001, Gong Shengliang, founder of the South China Church, was sentenced to death on criminal charges including rape, arson, and assault. In 2002, an appeals court overturned his death sentence, and Gong was sentenced to life in prison. In the retrial, four women from his congregation claimed that, prior to the first trial, police had tortured them into signing statements accusing Gong of raping them. The four women, who were found not guilty of “cultist activity” in the retrial, were nonetheless immediately sent to reeducation-through-labor camps. In the retrial, the court also dropped all “evil cult” charges against the South China Church.

During the year, the Government continued its harsh and comprehensive campaign against the Falun Gong. There were allegations that hundreds of individuals received criminal, administrative, and extrajudicial punishment for practicing Falun Gong, admitting that they believed in Falun Gong, or simply refusing to denounce the organization or its founder. While the campaign against Falun Gong appeared to have abated somewhat in eastern and southern China, it continued in other provinces. During the SARS epidemic, the Government launched new accusations that Falun Gong practitioners were disrupting SARS-prevention efforts. State-run media claimed that, beginning in April, Falun Gong followers “incited public panic” and otherwise “sabotaged” anti-SARS efforts in many provinces by preaching that belief in Falun Gong will prevent persons from contracting SARS. Authorities detained hundreds of Falun Gong adherents on such charges, including 69 in Jiangsu Province during May and 180 in Hebei Province during June.

Since the Government banned the Falun Gong in 1999, the mere belief in the discipline (even without any public manifestation of its tenets) has been sufficient grounds for practitioners to receive punishments ranging from loss of employment to imprisonment. Although the vast majority of the tens of thousands of practitioners detained since 2000 have been released, thousands reportedly remained in reeducation-through-labor camps. Those identified by the Government as “core leaders” have been singled out for particularly harsh treatment. More than a dozen Falun Gong members have been sentenced to prison for the crime of “endangering state security,” but the great majority of Falun Gong members convicted by the courts since 1999 have been sentenced to prison for “organizing or using a sect to undermine the implementation of the law,” a less serious offense. Most practitioners, however, were punished administratively. In addition to being sentenced to reeducation through labor, some Falun Gong members were sent to detention facilities specifically established to “rehabilitate” practitioners who refused to recant their belief voluntarily. In addition, hundreds of Falun Gong practitioners have been confined to mental hospitals (see Section 1.d).

Police often used excessive force when detaining peaceful Falun Gong protesters, including some who were elderly or who were accompanied by small children. During the year, there were further allegations of abuse of Falun Gong practitioners by the police and other security personnel. Since 1997, at least several hundred Falun Gong adherents reportedly have died while in police custody (see Section 1.a.). In December, Liu Chengjun, sentenced to 19 years in prison in March 2002 for involvement in illegal Falun Gong television broadcasts, was reportedly beaten to death by police in Jilin City Prison. In February 2002, Chengdu University Associate Professor Zhang Chuansheng died in prison after being arrested for his involvement

with Falun Gong. Prison authorities claimed he died of a heart attack, but witnesses who saw his body claimed he had been severely beaten.

Falun Gong practitioners continued their efforts to overcome government attempts to restrict their right to free assembly, particularly in Beijing, but the extent of Falun Gong public activity in the country continued to decline considerably (see Section 2.b.). The Government initiated a comprehensive effort to round up practitioners not already in custody and sanctioned the use of high-pressure tactics and mandatory anti-Falun Gong study sessions to force practitioners to renounce Falun Gong. Even practitioners who had not protested or made other public demonstrations of belief reportedly were forced to attend anti-Falun Gong classes or were sent directly to reeducation-through-labor camps, where in some cases, beatings and torture reportedly were used to force them to recant. These tactics reportedly resulted in large numbers of practitioners signing pledges to renounce the movement.

Authorities also detained foreign Falun Gong practitioners. For example, in January, two Australian citizens were deported for engaging in Falun Gong activities in Sichuan Province. In November 2001, more than 30 foreigners and citizens resident abroad were detained in Beijing as they demonstrated in support of the Falun Gong. They were expelled from the country; some credibly reported being mistreated while in custody.

During the year, the authorities also continued a general crackdown on other groups considered to be “cults,” often using the 1999 decision to ban cults under Article 300 of the Criminal Law. Regulations require all qigong groups to register with the Government. Those that did not were declared illegal. The Zhong Gong qigong group, which reportedly had a following rivaling that of Falun Gong, was banned in 2000. This created an atmosphere of uncertainty for many qigong practitioners, and there were reports that some qigong practitioners feared practicing or teaching openly. In February 2001, Zhang Xinying, vice chairman of the Chinese Society of Religious Studies, said that the rise of “cults” was due to frequent abuse of the concept of “religious freedom” by “some persons with ulterior motives.” Other senior leaders made similar comments in the context of criticizing Falun Gong.

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

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—Although the Government maintained restrictions on the freedom to change one’s workplace or residence, the national household registration and identification card system continued to erode, and the ability of most citizens to move within the country to work and live continued to expand. However, the Government retained the ability to restrict freedom of movement through other mechanisms. Authorities heightened restrictions periodically during the year, particularly before politically sensitive anniversaries and to forestall demonstrations.

The Government’s “hukou” system of national household registration underwent some liberalization during the year, as the country responded to economic demands for a more mobile labor force. Nonetheless, many Chinese could not officially change their residence or workplace within the country. Government and work unit permission were often required before moving from city to city. It was particularly difficult for peasants from rural areas to obtain household registration in economically more developed urban areas. This produced a “floating population” of between 100 and 150 million economic migrants who lacked official residence status in cities. Without official residence status, it was difficult or impossible to gain full access to social services, including education. Further, migrant workers were generally limited to types of work considered least desirable by local residents, and they had little recourse when subject to abuse by employers and officials. In some major cities, access to education for children of migrant workers continued to improve during the year, and some cities began to offer migrants some other social services free of charge. In September, Jiangsu Province became the first province to abolish the distinction between urban and rural residents in its household registration documents. In July, the city of Chengdu further liberalized its registration system, allowing up to half of the city’s 1.5 million migrants to qualify for temporary residence permits. In June, the administrative detention system of custody and repatriation applied to migrants was abolished (see Section 1.d.). Authorities announced that custody and repatriation centers would be replaced by a network of aid shelters offering services to migrants, but it was unclear at year’s end how these reforms would be implemented.

Prior to sensitive anniversaries, authorities in urban areas rounded up and detained some “undesirables,” including the homeless, the unemployed, migrant workers, those without proper residence or work permits, petty criminals, prostitutes, and the mentally ill or disabled. Dissidents reported that the authorities restricted their freedom of movement during politically sensitive periods and while foreign dignitaries visited the country.

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

The Government permitted legal emigration and foreign travel for most citizens. Passports were increasingly easy to obtain in most places, although those whom the Government deemed to be threats, including religious leaders, political dissidents, and some ethnic minority members continued to have difficulty obtaining passports (see Tibet Addendum). During the year, the Government expanded from 25 to 100 the number of cities in which residents can apply for a passport. Many local governments abolished regulations requiring residents to obtain written permission from police and employers before applying for a passport. The Government continued to use political attitudes as criteria for selecting persons for government-sponsored study abroad; however, the Government did not control privately sponsored students, who constituted the majority of citizens studying abroad. Business travelers who wished to go abroad could obtain passports relatively easily.

There were reports that some academics faced travel restrictions around the year’s sensitive anniversaries, particularly the June 4 anniversary of the 1989 Tiananmen Square massacre, and there were instances in which the authorities refused to issue passports or visas on apparent political grounds. Members of the underground Catholic Church, particularly clergy wishing to further their studies abroad, found it difficult to obtain passports and other necessary travel documents. Some Falun Gong members also reportedly had difficulty in obtaining passports during the year. In May 2001, the Government prevented Dr. Gao Yaojie, who had exposed the transmission of HIV through blood collection in villages in Henan Province, from traveling abroad to receive an award. Similarly, visas to enter the country also were denied. For example, some foreign academics who had been critical of the country continued to be denied visas.

Although a signatory of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, the country has no law or regulations that authorize the authorities to grant refugee status. The Government cooperated with the UNHCR when dealing with the resettlement of ethnic Han Chinese or ethnic minorities from Vietnam and Laos resident in the country. Since the late 1980s, the Government has adopted a de facto policy of tolerance toward the small number of persons, fewer than 100 annually, from other nations who registered with the Beijing office of the UNHCR as asylum seekers. The Government permitted these persons to remain in the country while the UNHCR made determinations as to their status and, if the UNHCR determined that they were bona fide refugees, while they awaited resettlement in third countries. However, the Government continued to deny the UNHCR permission to operate along its northeastern border with North Korea, arguing that North Koreans who crossed the border were illegal economic migrants, not refugees.

During the year, several thousand North Koreans were reportedly seized, detained, and forcibly returned to their homeland, where many faced persecution. In recent years, crackdowns on prostitution and forced marriages have resulted in increased deportations of North Korean women. During the year, the Government did permit approximately 300 North Koreans to travel to Seoul after they had entered diplomatic compounds or international schools in China, and hundreds more arrived in South Korea via third countries such as Mongolia, Vietnam, Thailand, and Cambodia after transiting through China. There were numerous credible reports of harassment, detention, and abuse of North Koreans in the country, including the July 27 detention of four persons at the Beijing train station and the August 7 detention of eight persons in Shanghai who allegedly attempted to enter the Japanese school. The Government also arrested and detained foreign journalists, missionaries and activists, as well as some Chinese citizens, for providing food, shelter, transportation,

and other assistance to North Koreans. For example, South Korean photojournalist Seok Jae Hyun was imprisoned in January while photographing North Korean refugees trying to board boats headed for South Korea and Japan (see Section 2.a.). In August, two South Korean journalists were detained and later expelled for allegedly assisting North Koreans attempting to enter an international school in order to transit to South Korea. In December, an employee of a Japanese NGO was detained for trying to assist North Koreans in China.

While UNHCR reported that more than 2,000 Tibetans each year continued to cross into Nepal, the Government continued to try to prevent many Tibetans from leaving. In a case that raised serious international concerns, on May 31, the Government pressured Nepalese authorities to repatriate forcibly 18 Tibetans, including several minors. The 18 were denied access to the UNHCR, forced onto a bus and taken back across the border to China, where they were held, first at a border post and later at a prison in Shigatse. According to NGO reports, the detainees were tortured, and most also were pressured for bribes. At year's end, NGOs could not confirm that all 18 individuals had been released (see Tibet Addendum).

In October, the Government executed Uighur Shaheer Ali after he and another Uighur were forcibly returned to China in 2002 from Nepal, where they had been granted refugee status by UNHCR (see Section 5).

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

Citizens lack the right to change their government peacefully and cannot freely choose or change the laws and officials that govern them. Rural citizens voted directly for their local village committees, which were not considered to be government bodies, and, in some areas, for Party-reviewed candidates for positions in township governments and county-level people's congresses. However, people's congress delegates at the provincial level were selected by county-level people's congresses, and, in turn, provincial-level people's congresses selected delegates to the NPC. Although the Party vets candidates for all elections above the village level, many township, county, and provincial elections featured competition, with more candidates than available seats in some races. Many elections, however, remained tightly controlled.

According to the Constitution, the NPC is the highest organ of state power. Formally, it elects the President and Vice President, selects the Premier and Vice Premiers, and elects the Chairman of the State Central Military Commission. In practice, the NPC Standing Committee oversees these elections and determines the agenda and procedure for the NPC under the direct authority of the CCP's Politburo Standing Committee. The NPC does not have the power to set policy or remove Government or Party leaders. In general, the election and agenda of people's congresses at all levels remained under the firm control of the CCP, the paramount source of political authority. By year's end, 23 provincial Party leaders had been named to head concurrently provincial people's congresses in order to strengthen Party control over the legislatures.

The CCP retained a tight rein on political decision-making and forbade the creation of new political parties. The Government continued efforts to suppress the CDP, an opposition party that had attracted hundreds of members nationwide within a few months of its founding in 1998. Public security forces had previously arrested nearly all of the CDP's leaders: Xu Wenli, Wang Youcai, and Qin Yongmin were sentenced in 1998 to prison terms of 13, 12, and 11 years respectively. Xu Wenli was released on medical parole to the United States in December 2002, but Wang and Qin remained in prison. At the time of the 16th Party Congress in November 2002, authorities targeted many remaining activists for signing an open letter calling for political reform and a reappraisal of the official verdict on the 1989 Tiananmen massacre (see Section 1.d.).

Under the Organic Law of the Village Committees, all of the country's approximately 1 million villages were expected to hold competitive, direct elections for sub-governmental village committees. A 1998 revision to the law called for improvements in the nominating process and improved transparency in village committee administration. The revised law also explicitly transferred the power to nominate candidates to the villagers themselves, as opposed to village groups or Party branches. According to the Ministry of Civil Affairs, the majority of provinces have carried out at least four or five rounds of village elections. Foreign observers who monitored local village committee elections judged the elections they observed, on the whole, to have been fair. However, the Government estimated that one-third of all elections had serious procedural flaws. Corruption and interference by township level officials continued to be a problem in some cases.

Since 1998, there has been experimentation at the township level designed to expand the role of township residents in the selection of their leaders. The country's

Constitution forbids direct election of officials above the village level, and a 2001 NPC directive emphasized that direct election of township-level officials was forbidden. In August, Wei Shengduo, a Party official in Chongqing municipality reportedly was detained for 2 weeks for trying to organize a direct election for the head of township government. Nonetheless, experimentation with indirect township-level elections continued during the year, and results of such elections were allowed to stand. Most such "elections" involved open nomination of candidates by township residents and pro forma confirmation by the township people's congress, selected either directly by residents or indirectly by "residents' representatives."

Candidates favored by local authorities have been defeated in some elections, although, in general, the CCP dominated the local electoral process. Approximately 60 percent of the members elected to the village committees were Party members. National-level election procedures mandate secret ballots and require villagers to be given ballots with space for write-in candidates, and these requirements were implemented in most cases. In elections for district level people's congresses, independent candidates were elected in Guangdong Province in May and in Beijing in December.

During the year, the Government also experimented with other forms of public oversight of government, including telephone hotline and complaint centers, administrative hearings, increased opportunity for citizen observation of government proceedings, and other forms of citizen input in the local legislative process, such as hearings to discuss draft legislation, which have been introduced on a limited basis in some areas.

Corruption remained an endemic problem. The courts and Party agencies took disciplinary action against some public and Party officials during the year. According to the Supreme People's Procuratorate, prosecutors at all levels investigated 207,103 cases of embezzlement, bribery, and other functionary crimes during the 1997–2002 period. During that period, 83,308 public officials were convicted for graft or bribery, a 65 percent increase over the previous 5-year period, according to the Supreme People's Court. In April, the Minister of Supervision reported that 860,000 corruption cases were filed against Party members from 1997 to 2002, resulting in over 137,000 expulsions and disciplinary action in over 98 percent of cases. The Party's Central Discipline and Inspection Commission also played an important role in investigating corruption and official malfeasance but published no statistics and, in some cases, reportedly acted as a substitute for sanctions by the courts and other legal agencies.

During the year, citizens seeking to petition the Central Government for redress of grievances faced harassment, detention, and incarceration. In several cases, Shanghai police officers and officials from the Shanghai Office of the Bureau for Handling Letters and Visits traveled to Beijing to prevent Shanghai residents from raising grievances with Central Government officials. On November 18, such a team of Shanghai officials detained Jiang Meili, the wife of convicted Shanghai housing advocate Zheng Enchong, and her sister and forced them to return to Shanghai. Jiang was in Beijing to consult her husband's attorney. Other citizens expressing grievances involving housing and salary have faced similar harassment. For example, Hong Kong resident Shen Ting was harassed by non-Beijing police and detained in October for traveling to Beijing to protest housing issues in Shanghai (see Section 1.f.). On December 2, Shanghai residents Gong Haoming and Chen Enjuan were sentenced to 30 and 21 months' reeducation through labor for "disturbing public order" after attempting to petition Beijing authorities. Other activists also were reportedly sentenced to reeducation through labor on the same charges.

The Government placed no special restrictions on the participation of women or minority groups in the political process. However, women still held few positions of significant influence at the highest rungs of the Party or government structure. There was one woman on the 24-member Politburo; she concurrently held the only ministerial post (out of 28) occupied by a woman. There was also one woman among the five State Councilors. In the country's 28 ministries, only 14 women served at the level of vice minister or higher. Women freely exercised their right to vote in village committee elections, but only a small fraction of elected members were women. The Government and Party organizations included approximately 12 million female officials out of 67 million Party members. Women constituted 20.2 percent of the NPC and 13.2 percent of the NPC Standing Committee. The 16th Party Congress in November 2002 elected 27 women to serve as members or alternates on the 198-person Central Committee, a slight increase over the total of the previous committee.

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

ever, minorities held few senior Party or government positions of significant influence.

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

The Government did not permit independent domestic NGOs to monitor openly or to comment on human rights conditions. It was difficult to establish an NGO, and the Government tended to be suspicious of independent organizations; most existing NGOs were quasi-governmental in nature and were closely controlled by government agencies (see Section 2.b.). However, an informal network of dissidents in cities around the country has become a credible source of information about government actions taken against activists. The information was disseminated outside of the country through organizations such as the Hong Kong-based Information Center for Human Rights and Democratic Movement in China and the New York-based Human Rights in China.

The press regularly printed articles about officials who exceeded their authority and infringed on citizens' rights. However, the Government remained reluctant to accept criticism of its human rights record by other nations or international organizations and criticized reports by international human rights monitoring groups, claiming that such reports were inaccurate and interfered with the country's internal affairs. Individuals, including Zheng Enchong of Shanghai and Liu Fenggang of Beijing, were charged or convicted of "disclosing state secrets" during the year after passing information to human rights NGOs based abroad. The Government maintained that there are legitimate, differing approaches to human rights based on each country's particular history, culture, social situation, and level of economic development. The Government established the China Society for Human Rights, a "non-governmental" organization whose mandate was not to monitor human rights conditions, but to defend the Government's views and human rights record.

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

In June, the Government submitted its first report on implementation of the International Covenant on Economic, Social and Cultural Rights, which the Government has ratified. In September, the U.N. Special Rapporteur on the Right to Education visited, the first U.N. special rapporteur to visit the country since 1994. In 2002, the Government agreed to invite the U.N. Special Rapporteur on Torture, the U.N. Special Rapporteur on Religious Intolerance, the U.N. Working Group on Arbitrary Detention, and the leaders of the U.S. Commission on International Religious Freedom to visit, but none of those visits took place. In at least two cases, the Government attached conditions on visits which the invited rapporteur or organization considered unacceptable.

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

There were laws designed to protect women, children, persons with disabilities, and minorities. However, in practice, some societal discrimination based on ethnicity, gender, and disability persisted.

Discrimination against persons with HIV/AIDS was widespread. According to official statistics, over 1 million citizens were infected with HIV; U.N. and other estimates suggested the true number could be twice as large. Demonstrations by persons with HIV/AIDS protesting discrimination in treatment or seeking greater access to health care sometimes attracted hundreds of participants, particularly in central provinces where thousands of villagers were infected at government-run blood collection centers. In some cases, authorities arrested and used force against HIV/AIDS protesters (see Section 2.c.). Individuals who disseminated information about HIV/AIDS infection from blood collection, including Henan provincial health official Ma Shiwen and Dr. Gao Yaojie, sometimes faced harassment, detention, and lawsuits (see Sections 1.d. and 1.e.). The Government and many provinces did, however, amend marriage laws during the year to permit marriages by those with HIV/AIDS. The first known marriage between two HIV-positive persons since the law was amended took place in July.

Women.—Violence against women was a significant problem. There was no national law criminalizing domestic violence, but Articles 43 and 45 of the Marriage Law provide for mediation and administrative penalties in cases of domestic violence. Over 30 provinces, cities or local jurisdictions have passed legislation specifically to address domestic violence. While no reliable statistics existed on the extent of physical violence against women, anecdotal evidence suggested that reporting of domestic abuse was on the rise, particularly in urban areas, because greater atten-

tion has been focused on the problem. A July 2000 survey by the All-China Women's Federation found that violence occurred in 30 percent of families, and 80 percent of cases involved husbands abusing their wives. Actual figures were believed to be higher because spousal abuse still went largely unreported. The survey found that domestic violence occurred at all socioeconomic levels. According to experts, domestic abuse was more common in rural areas than in urban centers. In response to increased awareness of the problem of domestic violence, there were a growing number of shelters for victims. Rape is illegal, and some persons convicted of rape were executed. The law does not expressly recognize or exclude spousal rape.

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

According to expert estimates, there were 1.7 to 5 million commercial sex workers in the country. The increased commercialization of sex and related trafficking in women trapped thousands of women in a cycle of crime and exploitation and left them vulnerable to disease and abuse. According to the official Xinhua News Agency, one in five massage parlors in the country was involved in prostitution, with the percentage higher in cities. Unsafe working conditions were rampant among the saunas, massage parlors, clubs, and hostess bars that have sprung up in large cities. Research indicated that up to 80 percent of prostitutes in some areas had hepatitis. In light of this and, in particular, of the growing threat of AIDS among sex workers, the U.N. Convention on the Elimination of Discrimination Against Women Committee in 1998 recommended that due attention be paid to health services for female prostitutes.

Although the Central Government and various provincial and local governments have attempted to crack down on the sex trade, there have been numerous credible reports in the media of complicity in prostitution by local officials. Actions to crack down on this lucrative business, which involved organized crime groups and businesspersons as well as the police and the military, had limited results. However, there have been instances in which persons involved in organizing and procuring prostitutes have been prosecuted. In December, state media reported that a Guangdong Provincial Court sentenced a hotel official and "pimp" to life in prison for procuring approximately 500 prostitutes for a September "orgy" party for hundreds of Japanese tourists. Twelve other persons, including hotel workers and travel agency employees, were sentenced to jail terms of between 2 and 15 years, but no local government officials or civil servants were convicted.

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

No statute outlaws sexual harassment in the workplace, and the law does not specifically define sexual harassment. In March, Beijing courts accepted their first sexual harassment case filed by a woman and, in September, awarded the first sexual harassment judgment in favor of a man in another case. There was no reliable data about the extent of sexual harassment, and the law did not specifically define sexual harassment. Experts suggested that many victims of sexual harassment did not report it out of fear of losing their jobs, but awareness was growing. State media reported that a television series on sexual harassment aired on many channels.

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

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

there was anecdotal evidence that women increasingly were using laws to protect their rights.

Nevertheless, women frequently encountered serious obstacles to the enforcement of laws. According to legal experts, it was very hard to litigate a sex discrimination suit because the vague legal definition made it difficult to quantify damages. As a result, very few cases were brought to court. Some observers also noted that the agencies tasked with protecting women's rights tended to focus on maternity-related benefits and wrongful termination during maternity leave rather than on sex discrimination, violence against women, and sexual harassment. The structure of the social system also prevented women from having a full range of options. Women who sought a divorce faced the prospect of losing their housing since government work units allot housing to men when couples marry.

The All China Women's Federation reported that 47 percent of laid-off workers were women, a percentage significantly higher than their representation in the labor force. Many employers preferred to hire men to avoid the expense of maternity leave and childcare, and some even lowered the effective retirement age for female workers to 40 years of age (the official retirement age for men was 60 years and for women 55 years). Lower retirement ages also had the effect of reducing pensions, which generally were based on years worked.

The law provides for equal pay for equal work. However, a 1999 Government survey found that urban women were paid only 70.1 percent of what men received for the same work, while women in rural areas received only 59.6 percent of male peasants' incomes. Average incomes of female executives and senior professionals were only 57.9 percent and 68.3 percent of their male colleagues' salaries. Women have borne the brunt of the economic reform of state-owned enterprises. Most women employed in industry worked in lower skilled and lower paid jobs and in sectors, such as textiles, which were particularly vulnerable to restructuring and layoffs.

A 1998 Asian Development Bank report estimated that 25 percent of all women were semi-literate or illiterate, compared with 10 percent of men. Official government statistics claimed that the illiteracy rate among women ages 15–40 was only 4.2 percent.

A high female suicide rate continued to be a serious problem. According to the World Bank, Harvard University, and the World Health Organization, some 56 percent of the world's female suicides occur in China (approximately 500 per day). The World Bank estimated the suicide rate in the country to be three times the global average; among women, it was estimated to be nearly five times the global average. Many observers believed that violence against women and girls, discrimination in education and employment, the traditional preference for male children, the country's birth limitation policies, and other societal factors contributed to the especially high female suicide rate.

While the gap in the education levels of men and women was narrowing, men continued to constitute a disproportionate number of the relatively small percentage of the population that received a university-level education. According to figures released by the All-China Women's Federation, in 2002 women made up 44.0 percent of university students and 46.7 percent of all high school students. However, women with advanced degrees reported an increase in discrimination in the hiring process as the job distribution system opened up and became more competitive and market driven. According to Government statistics, 98.5 percent of girls nationwide were enrolled in elementary school, but it was widely believed that the proportion of girls attending school in rural areas was far smaller than in cities.

Children.—The Constitution prohibits maltreatment of children and provides for compulsory education. The country has outlawed child labor and trafficking in children, but serious problems in those areas persisted.

The Constitution provides for 9 years of compulsory education for children, but in economically disadvantaged rural areas, many children did not attend school for the required period and some never attend. Public schools were not allowed to charge tuition, but after the Central Government largely stopped subsidizing primary education in the early 1990s, many public schools began to charge mandatory fees to meet revenue shortfalls. Such fees made it difficult for poorer families to send their children to school or to send them on a regular basis. Some charitable schools have opened in recent years in rural areas, but not enough to meet demand. Children of migrant workers in urban areas also often had difficulty attending school. For these families, excessive school fees were a significant problem. The Government campaign for universal primary school enrollment by 2000 (which was not met) helped to increase enrollment in some areas. It also reportedly led some school officials to inflate the number of children actually enrolled.

In September, the U.N. Special Rapporteur on the Right to Education visited the country. Following the visit, the Special Rapporteur reported that the Government

failed to provide education to many children of migrant workers and prohibited children from receiving religious education. The Special Rapporteur expressed serious concern about the recent privatization of the costs of public education, reporting that the Government compels parents to pay nearly half the costs of public education, making education inaccessible to many children. The Special Rapporteur also recommended the immediate prohibition of the practice of children performing manual labor at their schools to raise funds.

An extensive health care delivery system has led to improved child health and a continued decline in infant mortality rates. According to the 2000 Census, the infant mortality rate was 28.4 per 1,000. According to UNICEF statistics, the mortality rate for children under 5 years of age was 39 per 1,000 live births. The Law on the Protection of Juveniles forbids infanticide; however, there was evidence that the practice continued. According to the NPFPC, only a handful of doctors have been charged with infanticide under this law. The law prohibits discrimination against disabled minors and codifies a variety of judicial protections for juvenile offenders. The physical abuse of children can be grounds for criminal prosecution.

Despite government efforts to prevent kidnapping and the buying and selling of children, these problems persisted in some rural areas (see Section 6.f.). There were no reliable estimates of the number of children trafficked. Domestically, most trafficked children were sold to couples unable to have children; in particular, boys were trafficked to couples unable to have a son. However, in March, 28 baby girls were found packed in suitcases on a bus in Guangxi Province, apparently being shipped for sale elsewhere within the country (see Section 6.f.). Children also were trafficked for labor purposes. Girls and women were trafficked for prostitution and for sale as brides (see Section 6.f.).

Children reportedly were detained administratively, for minor crimes they committed or because they were homeless. After the abolition of the system of custody and repatriation (see Section 1.c.), the Government acknowledged that a growing number of homeless "street children" lived in cities and survived by begging. According to a credible report, children at times had accounted for as many as 20 percent of those detained in the custody and repatriation centers. Such children sometimes were detained without their parents, routinely were held with adults, and sometimes were required to work (see Sections 1.d. and 6.c.). In June, 3-year-old Li Shiyi starved to death at home in Chengdu, Sichuan, after police detained her mother and reportedly ignored the mother's pleas to check on the girl. The incident prompted a hunger strike by 200 intellectuals across the country.

Female infanticide, sex-selective abortions, and the abandonment and neglect of baby girls remained problems due to the traditional preference for sons and the birth limitation policy. Many families, particularly in rural areas, used ultrasound to identify female fetuses and terminate pregnancies. An official study in Hainan found that 68 percent of abortions were of female fetuses. Official figures from November 2000 put the overall male-female birth ratio at 116.9 to 100 (as compared to the statistical norm of 106 to 100). For second births, the ratio was 151.9 to 100. Female babies also suffered from a higher mortality rate than male babies, contrary to the worldwide trend. State media reported that infant mortality rates in rural areas were 27 percent higher for girls than boys. Neglect of baby girls was one factor in their lower survival rate. One study found the differential mortality rates were highest in areas where women had a lower social status and economic and medical conditions were poor.

The Law on the Protection of Juveniles forbids the mistreatment or abandonment of children. According to the latest available figures, compiled in 1994, the number of children abandoned annually was approximately 1.7 million, and the number may have grown over the subsequent decade despite the fact that, under the law, child abandonment is punishable by a fine and a 5-year prison term. The vast majority of children in orphanages were female, although some were males who were either disabled or in poor health. The treatment of children at these institutions has improved, especially with the increased attention created by foreign adoptions, but serious problems remained and mortality rates in some institutions were high. Medical professionals frequently advised parents of children with disabilities to put the children into orphanages. In recent years, some private orphanages (not funded by the Government), in which conditions may be generally better for children, have started to operate. In areas where such orphanages existed, some state-run orphanages exhibited a willingness to learn from them and to adopt some of their more modern practices, including the use of foster care.

The Government denied that children in orphanages were mistreated or refused medical care but acknowledged that the system often was unable to provide adequately for some children, particularly those who were admitted with serious medical problems. During the year, some orphanages were renovated, new orphanages

were constructed, and children in some areas received improved care. A 1997 revision of the adoption law made it easier for couples to adopt.

Persons with Disabilities.—The law protects the rights of the country's persons with disabilities; however, reality for persons with disabilities lagged far behind legal dictates, and many did not receive or have access to special assistance or to programs designed to assist them. According to the official press, all local Governments have drafted specific measures to implement the law.

As attention began to focus on the upcoming Special Olympics and Paralympics to be held in the country in 2007–08, the press increasingly publicized the plight of persons with disabilities and the Government's efforts to assist them. State media reported that the Government spent over \$12.5 million (RMB 103.75 million) on infrastructure improvements for persons with disabilities during the year. The Government, at times in conjunction with NGOs such as the Lions Club International or the Special Olympics, sponsored a wide range of preventive and rehabilitative programs. For example, several thousand blind persons have been trained in therapeutic massage. The goal of many of these programs was to allow persons with disabilities to be integrated into the rest of society. However, misdiagnosis, inadequate medical care, pariah status, and abandonment remained common problems.

According to reports, doctors frequently persuaded parents of children with disabilities to place their children in large government-run institutions, often far from the parents, and in which care was often seriously inadequate. Those parents who chose to keep children with disabilities at home generally faced difficulty in getting adequate medical care, day care, and education. Government statistics showed that almost one-quarter of the approximately 60 million persons with disabilities lived in extreme poverty. Unemployment among disabled adults remained a serious problem. The Government's official strategy was to integrate persons with disabilities into the mainstream work force, but efforts to do so were limited and confronted a cultural legacy of discrimination and neglect. Standards adopted for making roads and buildings accessible to persons with disabilities were subject to the Law on the Handicapped, which calls for their "gradual" implementation; compliance with the law was lax. Students with disabilities were discriminated against in access to education. The Higher Education Law permits universities legally to exclude disabled candidates for higher education.

The Maternal and Child Health Care Law forbids the marriage of persons with certain specified contagious diseases or certain acute mental illnesses such as schizophrenia. If doctors find that a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization. The Population and Family Planning Law of 2002 requires local governments to employ such practices to raise the percentage of healthy births.

Until the system of custody and repatriation was abolished in June, persons in urban areas with mental illness or disability who were found on city streets could be detained administratively. While the Government reported that it was establishing a system of humanitarian aid shelters to replace the custody and repatriation system, it was not clear if these shelters would provide effective services to persons with disabilities or other populations (see Section 1.d.).

National/Racial/Ethnic Minorities.—According to the 2000 census, the total population of the country's 55 ethnic minorities was 106.4 million, or 8.4 percent of the total population. Most minority groups resided in areas they traditionally have inhabited. The Government's avowed policy on minorities calls for preferential treatment in marriage regulations, birth planning, university admission, and employment. Programs have been established to provide low-interest loans, subsidies, and special development funds for minority areas. Nonetheless, in practice, minorities faced discrimination by the majority Han culture. Most of the minorities in border regions were less educated than the national average, and job discrimination in favor of Han migrants remained a serious problem. Racial discrimination was the source of deep resentment on the part of minorities in some areas, such as Xinjiang and Tibetan areas. For example, ethnic Uighurs in Xinjiang did not have equal access to newly created construction jobs associated with development projects; Han workers were brought in from Sichuan and elsewhere to work, particularly on technical projects such as oil and gas pipelines. The Government did not openly recognize racism against minorities or tension among different ethnic groups as problems.

Government development policies have long been in place to improve minority living standards. However, while overall standards of living for those in minority areas have improved as a result of these policies, real incomes in minority areas, particularly for minorities, remained well below those in other parts of the country. The

majority Han Chinese have benefited disproportionately from government programs and economic growth, even in minority areas. Many development programs have disrupted traditional living patterns of minority groups, and have included, in some cases, the forced evacuation of persons (see Section 2.d.).

Since 1949, Government policy has resulted in a significant migration of Han Chinese to Xinjiang. According to a Government White Paper released in May, approximately 8.25 million of Xinjiang's 19.25 million official residents were Han Chinese, up from 300,000 Han in 1949. Approximately 8 million Xinjiang residents are Uighurs. Significant numbers of Kazakhs, Hui, Tajiks, and other minorities also live in Xinjiang. Official statistics underestimated the Han population of Xinjiang because the Government did not count the thousands of Han Chinese who were long-term "temporary workers" as part of the official population. The migration of ethnic Han into Xinjiang in recent decades has caused the Han-Uighur ratio in the capital of Urumqi to shift from 20:80 to 80:20 and was a source of Uighur resentment. Similarly, many non-Tibetan residents of the TAR have lived there for years as "temporary" residents (see Tibet Addendum).

In many areas with a significant population of minorities, there were two-track school systems which used either standard Chinese or the local minority language. Students could choose to attend schools in either system. However, graduates of minority language schools typically needed 1 year or more of intensive Chinese before they could handle course work at a Chinese-language university. Despite the Government's efforts to provide schooling in minority languages, the dominant position of standard Chinese in government, commerce, and academia put graduates of minority schools who lacked standard Chinese proficiency at a disadvantage. The vast majority of Uighur children in Xinjiang attended Uighur-language schools and generally received an hour's Chinese language instruction per day. Tuition at Chinese-language schools in Xinjiang was generally more costly, and thus, most Uighur children living in rural areas were unable to afford them.

The CCP has an avowed policy of boosting minority representation in the Government and the NPC, and minorities constituted 14 percent of the NPC, which was higher than their percentage in the population. A 1999 government white paper reported that there were 2.7 million minority officials in the Government. The May Government White Paper states that there are 348,000 minority cadres in Xinjiang, accounting for 51.8 percent of all Party members in the autonomous region. Many members of minorities occupied local leadership positions, and a few held positions of influence in the local Party apparatus or at the national level. For example, 63 percent of Xinjiang's deputies to the NPC are ethnic minorities. However, in most areas, ethnic minorities were shut out of positions of real political and economic power, which fed resentment of Han officials holding the most powerful Party positions in minority autonomous regions.

Tensions between ethnic Han citizens and Uighurs in Xinjiang continued, and the authorities continued to restrict political, civil, and religious freedoms (see Section 2.c.) in the region. A campaign that began in 1997 to stress unity and to condemn "splittism" and religious extremism showed no signs of abating. During the year, authorities continued to prohibit activities deemed separatist in nature, announced tightened security measures, and mounted campaigns to crack down on opposition.

The strike hard campaign in Xinjiang specifically targeted the "three evils" of extremism, splittism, and terrorism as the major threats to Xinjiang's social stability. Because the Government authorities in Xinjiang regularly grouped together those involved in "ethnic separatism, illegal religious activities, and violent terrorism," it was often unclear whether particular raids, detentions, or judicial punishments targeted those peacefully seeking their goals or those engaged in violence. Many observers raised concerns that the Government's war on terror was a justification for cracking down harshly on Uighurs expressing peaceful political dissent and on independent Muslim religious leaders. On December 15, the Government published an "East Turkestan Terrorist List," which labelled organizations such as the World Uighur Youth Congress and the East Turkestan Information Center as terrorist entities. These groups openly advocate for East Turkestan independence, but have not been publicly linked to violent activity.

Uighurs were executed and sentenced to long prison terms during the year on charges of separatism. According to official accounts, by May 2001, the authorities had prosecuted more than 3,000 cases and massive public sentencing rallies attended by more than 300,000 persons had been held throughout the region. In October, Uighur Shaheer Ali was executed after being convicted of terrorism in 2002 and sentenced to death in March. In 2002, Ali and another Uighur were repatriated forcibly to the country from Nepal, where they had been granted refugee status by the UNHCR.

For many Uighurs, the ongoing imprisonment of Uighur businesswoman Rebiya Kadeer symbolized the Government's mistreatment of Uighurs. In March 2000, a Xinjiang court sentenced Kadeer, a former member of the provincial-level Chinese People's Political Consultative Conference, to 8 years in prison on charges of "passing state intelligence" to foreigners; according to an official press report, the intelligence she was accused of passing included newspaper articles and a list of names of persons whose cases had been handled by the courts. Kadeer, her son, and her secretary were arrested in 1999 while on their way to meet a visiting foreign delegation. Kadeer reportedly suffered various health problems in prison. Some foreign observers believed Kadeer was singled out for her activism on behalf of Uighurs and for her husband's involvement with Uighur causes and Radio Free Asia. In December 2002, some of Kadeer's family members were briefly detained and questioned during a visit of senior foreign officials.

Other Uighurs whose work emphasized pride in cultural identity have also been harassed and detained by the Government. In late 2001, the U.N. Human Rights Committee ruled that Uighur scholar Tohti Tunyaz had been arbitrarily detained. He was sentenced in 1999 to an 11-year term for "inciting separatism" and "illegally acquiring state secrets" after he returned to Xinjiang in connection with his research studies on ethnic minorities at the University of Tokyo.

Possession of separatist publications or audiovisual materials was not permitted, and, according to reports, possession of such materials resulted in lengthy prison sentences. The author of a history of the Uighurs that was severely criticized by provincial-level and national authorities in the mid-1990s remained prohibited from publishing or from meeting with foreigners. A Uighur-language press existed in Xinjiang, but it had a very small circulation. During the year, regulations requiring Uighurs to use Mandarin Chinese characters for their names on identification documents were reportedly strengthened.

Han control of the region's political and economic institutions also contributed to heightened tension. Although government policies brought tangible economic improvements to Xinjiang, Han residents have received a disproportionate share of the benefits. The majority of Uighurs were poor farmers, and 25 percent were illiterate.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for freedom of association. However, in practice, workers were not free to organize or join unions of their own choosing. The All-China Federation of Trade Unions (ACFTU), which was controlled by the Communist Party and headed by a high-level Party official, was the sole legal workers' organization. The Trade Union Law gives the ACFTU control over the establishment and operation of all subsidiary union organizations and activities throughout the country, including enterprise-level unions. The Trade Union Law also allows workers to decide whether to join official unions in their enterprises. There were no reports of repercussions for the small percentage of workers in the state-owned sector that had not joined. Independent unions are illegal.

Although the ACFTU and its constituent unions had a monopoly on trade union activity, their influence over the workplace diminished with the economic reforms of recent years. ACFTU unions were relatively powerless to protect the tens of millions of members who have lost their jobs or had their wages or benefits delayed or cut in the massive restructuring of state-owned enterprises (SOEs). The unions have, however, provided some benefits and reemployment assistance to affected workers. The ACFTU had difficulty organizing in the country's rapidly growing private and foreign-invested sectors, where union membership during the year was estimated to be less than 20 percent. With declines in the state-owned sector and organizational weakness outside the state sector, the ACFTU's membership declined from nearly 100 percent of the urban workforce during the height of the planned economy to approximately 50 percent in recent years. The ACFTU reported a membership of 130 million at the end of 2002, out of an estimated 248 million urban workers.

The existence of an enormous rural labor force, some 490 million out of a total labor force of approximately 750 million, also complicated the organization and protection of workers. Farmers did not have a union or any other similar organization. Of some 130 million rural residents working in township and village enterprises, only a very small percentage were represented by unions. A "floating" migrant labor force of over 100 to 150 million persons has proven especially difficult to organize and protect, although state-run media reported in August that the ACFTU has stepped up a campaign to bring migrant workers into the union. Some of these migrants gravitated to temporary or seasonal low-wage work in urban areas where their residence, under the country's registration system, often was illegal (see Section 2.d.). Many migrants, including substantial numbers of young women, were at-

tracted to the growing private sector where unions were few and where their desire to earn more than they could in rural areas made them easy to exploit.

The ACFTU has shown some interest in adapting its style to the needs of labor in a market economy. Local ACFTU federations have allowed, even facilitated, a few limited experiments in more open union elections and decision-making. These included freely electing, by secret ballot, the leadership of ACFTU-affiliated unions at several foreign-owned factories in Guangdong and Fujian Provinces in 2002 and 2003. The ACFTU also actively pushed amendments to the Trade Union Law, passed in 2001, that give greater protection to union organizing efforts and legitimize union activity in the private sector, including foreign-invested enterprises, and will now allow migrant workers to become union members. Despite the ACFTU's stated goals to organize these new groups of workers, there had been very limited gains as of year's end.

During the year, the Government took specific actions against illegal union activity, including the detention and arrest of labor activists. In May, Yao Fuxin and Xiao Yunliang, leaders of a large labor protest in Liaoyang City, Liaoning Province, who were detained in March 2002, were sentenced to 7 and 4 years in prison, respectively, based largely on allegations that they had made contact with the CDP in 1998, several years before the workers protests. Many observers believed that the sentences were largely in retaliation for their role in the labor protests.

Other labor activists, detained in previous years, were reportedly still in detention at year's end. Hu Mingjun was serving an 11-year sentence and Wang Sen a 10-year sentence for supporting December 2000 worker protests in Sichuan Province. Shanghai labor dissident Wang Miaogen, detained in 1996, was still being held in a psychiatric hospital. Other labor activists reportedly still in detention included Zhang Shanguang, Li Wangyang, Li Jiaqing, Miao Jinhong, Ni Xiafei, Li Keyou, Liao Shihua, Yue Tianxiang, Guo Xinmin, He Zhaohui, Liu Jingsheng, Peng Shi, Wang Guoqi, and labor lawyer Xu Jian. However, in June, the Government reportedly released Di Tianguai after he served a 1-year sentence for trying to organize a national federation of retired workers.

The country was a member of the International Labor Organization (ILO) and had ratified core ILO conventions prohibiting child labor, including the worst forms of child labor and discrimination in remuneration for male and female workers. At year's end, the Government had not ratified other core conventions regarding the right of association, the right to collective bargaining, and the prohibition against compulsory labor.

At year's end, the Government had not replied to an ILO request for further information in connection with a 1998 complaint brought to the ILO by the International Confederation of Free Trade Unions (ICFTU) alleging the detention of trade unionists and violations of the right to organize. In 2002, the ICFTU submitted another complaint to the ILO alleging repression of independent workers' protests in Liaoyang in Liaoning Province and Daqing in Heilongjiang Province calling attention to the sentencing of two worker activists in Sichuan Province.

The ACFTU had active ties with other national trade union organizations and had a cooperative relationship with the ILO's China office. In 2002, the ACFTU gained a deputy workers' member seat on the ILO's Governing Body, a seat it lost in 1990 during the crackdown following the Tiananmen Square massacre. The ICFTU publicly condemned China for its denial of the right of free association, in particular for arresting labor activists. The ACFTU cooperated with the U.N. Development Program on a program, part of which was designed to assist unions to adapt to a new labor relations model.

b. The Right to Organize and Bargain Collectively.—The Labor Law permits collective bargaining for workers in all types of enterprises; however, in practice, genuine collective bargaining still did not occur. Under the law, collective contracts are to be developed through collaboration between the labor union (or worker representatives in the absence of a union) and management, and should specify such matters as working conditions, wage scales, and hours of work. The law also permits workers and employers in all types of enterprises to sign individual contracts, which are to be drawn up in accordance with the collective contract.

The country's shift toward a market economy and changing labor-management relations created pressures for collective bargaining that would include more genuine negotiations and take workers' interests into greater account. The Trade Union Law specifically addresses unions' responsibility to bargain collectively on behalf of workers' interests. However, given the non-democratic, Party-dominated nature of unions, collective bargaining fell far short of international standards. Workers had no means to formally approve or reject the outcome of collective contract negotiations and, without the right to strike, only a limited capacity to influence the negotiation process.

In the private sector, where official unions were few and alternative union organizations were unavailable, workers faced substantial obstacles to bargaining collectively with management. Workplace-based worker committees, expected to guide union activities and serve as the vehicle for worker input into enterprise policies, were common. However, in SOEs, many were little more than rubber stamps for deals predetermined by enterprise management, the union, and the CCP representative.

The Trade Union Law provides specific legal remedies against anti-union discrimination and specifies that union representatives may not be transferred or terminated by enterprise management during their term of office. These provisions were aimed primarily at the private sector, where resistance to unions was common. The degree to which these provisions were enforced was unknown. Anti-union activity was virtually unknown in the state-owned sector.

Neither the Constitution nor the law provides for the right to strike. The Trade Union Law acknowledges that strikes may occur, in which case the union is to reflect the views and demands of workers in seeking a resolution of the strike. Some observers have interpreted this provision to offer at least a theoretical legal basis for the right to strike. However, government treatment of worker protests as illegal demonstrations established that there was still no officially accepted right to strike. In addition, no other types of planned worker action were allowed.

During the year, the profound economic and social changes affecting workers continued to produce labor-related disputes and worker actions. These included spontaneous and on-the-job protests, most of them directed against SOEs, usually over actual and feared job losses, wage or benefit arrears, or allegations of owner/management corruption in enterprise restructuring. The Government took swift action to halt protests. Police detained protest leaders and dispersed demonstrations, usually with minimum force. They sometimes subsequently offered payments that met at least a portion of protestors' demands. The most noteworthy labor protests in recent years occurred in the spring of 2002 in the northeastern region of the country, particularly in Liaoyang, Liaoning Province. In the Liaoyang protests, thousands of organized workers and sympathizers demonstrated for a number of days, protesting alleged corruption in the closure of a major local SOE, the loss of jobs, and wage and benefit irregularities. As a consequence of the protests, four worker leaders were arrested. Of these, Yao Fuxin and Xiao Yunliang were convicted on subversion charges and sentenced in May (see Section 6.a.). After the protests, the former manager of the SOE was sentenced to 13 years on smuggling charges. The local Government fired Liaoyang's police chief and demoted a top Party official in the city. Work stoppages at private companies were far fewer than in SOEs but did occasionally occur.

The Labor Law provides for mediation, arbitration, and court resolution of labor disputes. Under these procedures, cases are to be dealt with first in the workplace, through a mediation committee, then, if unresolved, through a local arbitration committee under government sponsorship. If no solution is reached at this level, the dispute may be submitted to the courts. According to Ministry of Labor and Social Security statistics for 2002, 51,000 labor disputes were settled through mediation, and 184,000 disputes involving 610,000 workers were submitted to arbitration, increases of about 19 percent and 31 percent, respectively, over 2001 figures. Of these cases, 11,000 were collective labor disputes, and a vast majority of cases, 179,000 or 91 percent, were resolved.

Observers differed over the effectiveness of these dispute resolution procedures. Workers reportedly had little trust in the fairness of workplace mediation. They viewed unions, which played a major mediation role, as inclined to favor management. Workers favored arbitration over workplace mediation, although they often looked with suspicion on the local government role in the process.

Laws governing working conditions in Special Economic Zones (SEZs) were not significantly different from those in effect in the rest of the country. Lax enforcement of these laws by provincial and local officials was a serious problem in the SEZs, as in other parts of the country. Wages in the SEZs and in the southeastern part of the country generally were higher for some categories of workers than in other parts of the country because high levels of investment have created a great demand for available labor. As in other areas of the country, officials acknowledged that some investors in the SEZs were able to negotiate "sweetheart" deals with local partners that bypassed labor regulations requiring the provision of benefits and overtime compensation. Some foreign businesses in the SEZs had ACFTU-affiliated unions, and management reported positive relations with union representatives, in part because the ACFTU discouraged strikes and work stoppages.

c. Prohibition on Forced or Bonded Labor.—The law prohibits forced and bonded labor, and the Government denied that forced or bonded labor was a problem; how-

ever, forced labor was a serious problem in penal institutions. Citizens were consigned to penal labor institutions, without judicial process (see Section 1), that by law and public policy utilized labor as a means of reform and reeducation. Detainees in custody and repatriation centers, before that system was abolished in June, as well as reeducation-through-labor detainees and prisoners and pretrial detainees in the regular prison system, were required to work, often with little or no remuneration. Diplomatic observers generally were unable to gain access to reform institutions to evaluate allegations about the treatment of prisoners. In some cases, prisoners worked in facilities directly connected with penal institutions; in other cases, they were contracted to nonprison enterprises. Facilities and their management profited from inmate labor.

In 1992, the U.S. and Chinese Governments signed a memorandum of understanding (MOU), followed by an implementing statement of cooperation (SOC) in 1994. These agreements expressed the intention of the governments to cooperate to assure that Chinese prison-made products were not exported to the United States. However, Chinese cooperation under the MOU and SOC has been poor. Regular working-level meetings were held in 2002, but a scheduled prison visit and further cooperation were suspended in 2003 due to SARS; no prison visits took place during the year. Although monthly meetings resumed in December 2003, the backlog of cases remained substantial at year's end. The Government continued to exclude explicitly reform- and reeducation-through-labor institutions from the agreements.

The Government prohibits forced and bonded labor by children, but some child trafficking victims were reportedly sold into forced labor (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The law prohibits the employment of children under the age of 16, but the Government had not adopted a comprehensive policy to combat child labor. The Labor Law specifies administrative review, fines, and revocation of business licenses of those businesses that illegally hire minors. The law also stipulates that parents or guardians should provide for children's subsistence. Workers between the ages of 16 and 18 were referred to as "juvenile workers" and were prohibited from engaging in certain forms of physical work, including labor in mines.

The Government continued to maintain that the country did not have a widespread child labor problem and that the majority of children who worked did so at the behest of their families, particularly in impoverished rural areas, to supplement family income. Child workers in rural areas appeared to work primarily for township and village enterprises and in agriculture. In urban areas, they often worked as menial and street laborers. Some observers believed that coalmines, which often operated far from urban centers and out of the purview of law enforcement officials, also occasionally employed children. The Government argued that the existence of a large adult migrant labor force, often willing to work long hours for low wages, reduced the attractiveness of child labor for employers.

Some students worked in light industrial production within or for their schools. In March 2001, an explosion in Jiangxi Province at an elementary school that was also used to manufacture fireworks killed 42 persons, most of them schoolchildren who worked to assemble the fireworks. After parents of the children spoke to the press, the Government took disciplinary action against local officials who had attempted to cover-up the case as an attack by a "mad bomber." Provincial officials moved to tighten controls over Jiangxi's economically important fireworks industry. This incident may have served as a catalyst for greater government acknowledgement of the problem of child labor. In the autumn of 2001, the Government announced the formation of a multi-agency commission to study the issue. The commission failed to produce a public report. In October 2002, the State Council issued a regulation clarifying existing child labor prohibitions.

e. Acceptable Conditions of Work.—The Labor Law provides for broad legal protections for workers on such matters as working hours, wages, and safety and health. The Trade Union Law invests unions with the authority to protect workers against violations of their legal rights or contractually agreed conditions of work. The Law on the Prevention and Treatment of Occupational Diseases, and the Production Safety Law identify responsibilities for work-related illness and accidents, and provide for specific penalties for violation of the law. However, there remained a substantial gap between the law's formal provisions for work conditions and the actual situation in the workplace.

There was no national minimum wage. The Labor Law allows local governments to determine their own standards for minimum wages. Local governments generally set their minimum wage at a level higher than the local minimum living standard but lower than the average wage. Widespread official corruption and efforts by local

officials to attract and keep taxpaying, job-producing enterprises that might otherwise locate elsewhere undercut enforcement of the minimum wage provisions.

The Labor Law mandates a 40-hour standard workweek, excluding overtime, and a 24-hour weekly rest period. It also prohibits overtime work in excess of 3 hours per day or 36 hours per month and mandates a required percentage of additional pay for overtime work. However, these standards were regularly violated, particularly in the private sector. They were particularly ignored in enterprises that could rely on a vast supply of low-skilled migrant labor. In many industries such as textile and garment manufacturing, compulsory overtime reportedly was common, often without overtime pay. During the year, auditors found that some factories routinely falsified overtime and payroll records. There also were reports of workers being prevented from leaving factory compounds without permission.

Occupational health and safety concerns remained serious. The poor enforcement of occupational health and safety laws and regulations continued to put workers' lives at risk. The State Administration for Work Safety (SAWS), which was administratively joined with the State Administration for Coal Mine Safety Supervision (SACMSS), was responsible for providing a nationwide framework for work safety. With enactment of the Work Safety Act in 2002, the Government gave SAWS/SACMSS a specific, detailed legal framework for its responsibilities. SAWS/SACMSS staffed nearly 70 field offices throughout the country. The Ministry of Health was responsible for prevention and treatment of occupational illness. Some provincial and local governments have followed the national pattern of establishing separate work safety agencies. However, enforcement of national health and safety standards, which was the responsibility of governments below the national level, remained very weak.

Workplace health and safety did not improve significantly during the year, and there continued to be a high rate of industrial accidents. According to official statistics, from January to September, there were 10,227 work-related accidents, resulting in 11,449 deaths, compared with 13,960 workplace accidents, resulting in 14,924 deaths, in 2002. Coalmines were by far the most deadly workplaces. In the first three quarters of the year, 2,802 coal mine accidents caused 4,620 fatalities. Coalmine accidents comprised approximately 27 percent of all non-traffic, non-fire-related workplace accidents, but accounted for approximately 40 percent of corresponding workplace deaths. Enterprise owners and managers sometimes failed to report accidents and health problems. Local officials also often underreported such incidents. As a result, the actual number of workplace deaths and casualties was likely far higher.

The high rate of coal mining accidents highlighted serious enforcement problems in that sector. However, government officials and media have been increasingly vocal about the need to control workplace accidents and increasingly frank in assessing blame. In May, following a major coalmine disaster in a state-owned mine in Anhui Province, SAWS/SACMSS Administrator Wang Xianzheng publicly criticized mine operation failures for the accident. In recent years, the Government has closed tens of thousands of small coalmines, many of them illegal operations, where the majority of accidents and casualties occurred. Despite these efforts, many mines reopened illegally soon after closing. Observers attributed the enforcement problem in the coal mining sector primarily to corruption, a need to sustain employment in poor areas where many of the most dangerous mines were located, and a paucity of inspectors.

Fewer than half of rural enterprises met national dust and poison standards. Many factories that used harmful products, such as asbestos, not only failed to protect their workers against the ill effects of such products, but also failed to inform them about the hazards.

Approximately 44.1 million workers reportedly participated in the country's new work-injury insurance system at the end of 2002. In recent years, small but growing numbers of workers also began to use lawsuits to pursue work injury and illness claims against employers.

f. Trafficking in Persons.—The law prohibits trafficking in women and children; however, trafficking in persons and the abduction of women for trafficking remained serious problems. The country was both a source and destination country for trafficking in persons. Most trafficking was internal for the purpose of providing lower-middle income farmers with brides or sons, but a minority of cases involved trafficking of women and girls into forced prostitution in urban areas, and some reports suggested that some victims, especially children, were sold into forced labor.

Internal trafficking was a significant problem. The Ministry of Public Security estimated that 9,000 women and 1,000 children were kidnapped and sold illegally each year.

Some experts suggested that the serious imbalance in sex ratios in some regions (see Section 1.f.) had created a situation in which the demand for marriageable women could not be met by local brides, thus fueling the demand for abducted women. The problem of a shortage of marriageable women was exacerbated by the tendency for many village women to leave rural areas to seek employment. In addition, the cost of traditional betrothal gifts given to a bride's family sometimes exceeded the price of a trafficked bride and thus made purchasing a bride more attractive to poor rural families. Some families addressed the problem of a shortage of women by recruiting women in economically less advanced areas. Others sought help from criminal gangs, which either kidnapped women and girls or tricked them by promising them jobs and an easier way of life and then transported them far from their home areas for delivery to buyers. Once in their new "family," these women were "married" and raped. Some accepted their fate and joined the new community; others struggled and were punished. Many kidnappings reportedly also occurred in provinces where the male to female ratio was generally balanced.

There were reports that women and girls from Burma, Laos, North Korea, Vietnam, and Russia were trafficked into the country either to work in the sex trade or to be forced to marry Chinese men. Trafficking of North Korean women and girls into the country to work in the sex industry was reportedly widespread in the northeastern part of the country; border guards reportedly were involved. Many such women, unable to speak Chinese, were virtual prisoners. Others stayed in their new situation because the country was less poverty-stricken than North Korea. A few of the Korean women were sold against their will to rural men in both ethnic Korean and ethnic Han areas. Others ended up working as prostitutes. According to press reports, North Korean brides were sold for approximately \$38 (RMB 315) to \$150 (RMB 1,245). Women reportedly also were trafficked from Vietnam into the country for purposes of forced marriage.

Chinese citizens were trafficked from the country for sexual exploitation and indentured servitude in domestic service, sweatshops, restaurants, and other services. There were reports that Chinese citizens were trafficked to Australia, Belgium, Burma, Canada, Hungary, Italy, Japan (illegal immigrants held in debt bondage), Malaysia, the Netherlands (for the purpose of sexual exploitation), Singapore, Sri Lanka (for sexual exploitation), Taiwan, the United Kingdom (for sexual exploitation), and the United States. A large number of citizens were trafficked through Hong Kong.

Alien smuggling rings often had ties to organized crime and were international in scope. Persons trafficked by alien smugglers paid high prices for their passage to other countries, where they hoped that their economic prospects would improve. There were credible reports that some promised to pay from \$30,000 to \$50,000 (RMB 248,000 to 415,000) each for their passage. Upon arrival, many reportedly were forced to repay the traffickers for the smuggling charges by working in specified jobs for a set period of time. They often also were forced to pay charges for living expenses out of their meager earnings. The conditions under which these trafficked persons had to live and work were generally poor, and they were often required to work long hours. The smuggling rings that trafficked them often restricted their movements, and their travel documents, which were often fraudulent, frequently were confiscated. Victims of trafficking faced threats of being turned in to the authorities as illegal immigrants and threats of retaliation against their families at home if they protested the situation in which they found themselves. Persons who were trafficked from the country and then repatriated sometimes faced fines for illegal immigration upon their return; after a second repatriation, such persons could be sentenced to reeducation through labor. Alien smugglers were fined \$6,000 (RMB 49,600), and most were sentenced to up to 3 years in prison; some have been sentenced to death.

Kidnapping and the buying and selling of children continued to occur, particularly in poorer rural areas. There were no reliable estimates of the number of children trafficked. Domestically, most trafficked children were sold to couples unable to have children; in particular, boys were trafficked to couples unable to have a son. However, baby girls also were trafficked. In March, police found 28 girls packed in suitcases on a bus going from Guangxi Province to Anhui Province apparently for sale. The oldest was 3 months of age; one baby died en route. Children were also trafficked for labor purposes. Children trafficked to work usually were sent from poorer interior areas to relatively more prosperous areas; traffickers reportedly often enticed parents to relinquish their children with promises of large remittances that their children would be able to send to them. The Ministry of Public Security uses DNA technology to confirm parentage, operating a national DNA databank.

The purchase of women was not criminalized until 1991, with the enactment of the NPC Standing Committee's "Decision Relating to the Severe Punishment of

Criminal Elements Who Abduct and Kidnap Women and Children.” This decision made abduction and sale separate offenses.

Arrests of traffickers have decreased from the peak in 2000, when a nationwide crackdown was initiated. That year, more than 19,000 persons were arrested and more than 11,000 were sentenced to punishments, including, in a few cases, the death penalty. According to official media reports, 110,000 women and 13,000 children who had been abducted were rescued in 2000. In 2002, official statistics indicate that authorities registered 1,897 cases involving trafficking of women and children (54.6 percent fewer than reported in 2000); uncovered 1,585 new cases of trafficking (56.2 percent fewer than in 2000); and rescued a total of 11,000 trafficked women and children.

Despite government efforts to eliminate trafficking in women and children, the problem persisted. Demand far outstripped the available supply, making trafficking a profitable enterprise for those willing to risk arrest and prosecution. The Government also continued to struggle with the pervasive problem of official corruption, as demonstrated by the prosecution and sentencing of over 83,000 officials on corruption-related charges in 1998–2002 (see Section 3). There were reports of complicity of local officials in the related problem of alien smuggling, as well as reports of the complicity of local officials in prostitution, which sometimes involved trafficked women. Disregard of the law also manifested itself at the village level, where village leaders have in some cases sought to prevent police from rescuing women who have been sold as brides to villagers.

Agencies involved in combating trafficking included the Ministry of Public Security, the Supreme People’s Court, the Supreme People’s Procuratorate, the Ministry of Civil Affairs, the Central Office in Charge of Comprehensive Management of Public Order, and the Legislative Office of the State Council. Some victims of domestic trafficking were given assistance and returned to their homes. It was Central Government policy to provide funds to provincial and local police to house victims and return them to their homes. Government-funded women’s federation offices provided counseling on legal rights, including the options for legal action against traffickers, to some victims. The All-China Women’s Federation assisted victims in obtaining medical and psychological treatment.

TIBET

The United States recognizes the Tibet Autonomous Region (TAR) and Tibetan autonomous prefectures and counties in other provinces to be a part of the People’s Republic of China. The Department of State follows these designations in its reporting. The preservation and development of Tibet’s unique religious, cultural, and linguistic heritage and the protection of its people’s fundamental human rights continue to be of concern.

Respect for Integrity of the Person.—The Government’s human rights record in Tibetan areas of China remained poor, although some positive developments continued. The Government permitted a second visit to the country by the Dalai Lama’s representatives and provided reporters and foreign officials with somewhat greater access to the TAR. The Government controlled information about all Tibetan areas, and in addition, strictly controlled access to the TAR, making it difficult to determine accurately the scope of human rights abuses. Authorities continued to commit serious human rights abuses, including execution without due process, torture, arbitrary arrest, detention without public trial, and lengthy detention of Tibetans for peacefully expressing their political or religious views. Deaths of at least 41 Tibetan political prisoners since 1989 can be attributed to severe abuse under detention; at least 20 of those prisoners had been in Lhasa’s TAR Prison (also known as Drapchi Prison). The overall level of repression of religious freedom in the TAR, while somewhat less oppressive for lay followers than in previous years, remained high. Conditions generally were less restrictive in Tibetan areas outside of the TAR. Individuals accused of political activism faced ongoing harassment during the year. There were reports of imprisonment and abuse of some nuns and monks accused of political activism. Security was intensified during sensitive anniversaries and festival days in some areas, while activities viewed as vehicles for political dissent, including celebration of some religious festivals, were suppressed. There were reports of small-scale political protests in a number of Tibetan areas.

On January 26, Tibetan Lobsang Dondrub was executed for alleged involvement in a series of bombings in Sichuan Province in 2002. The death sentence of Buddhist teacher Tenzin Deleg on the same charges was deferred for 2 years. The trials of the two men were closed to the public on “state secrets” grounds, and they were denied due process, including access to adequate representation. Lobsang Dondrub’s execution the same day he lost his appeal to the Sichuan Provincial Higher People’s

Court, as well as the failure of the national-level Supreme People's Court to review the case as promised to foreign officials, raised serious concerns in the international community. In March, two Tibetans were reportedly arrested for providing information to foreign individuals about the investigation of the 2002 bombings in Sichuan Province for which Lobsang Dondrub and Tenzin Deleg received death sentences. In April, four individuals arrested with Tenzin Deleg were reportedly released. In July, two more individuals, Tsering Dondrub and Tashi Phuntsog, were reported by non-governmental organizations (NGOs) to have been released, but officials denied that such a release took place. Their whereabouts remained uncertain at year's end.

In January, monks Kalsang Dondrub and Ngawang Dondrub were sentenced in Qinghai Province on charges of "endangering state security" for nonviolent political activities.

On April 11, Kunchok Choephel Labrang and Jigme Jamtruk, two monks from Labrang Tashikyil Monastery in Kanlho Prefecture, Gansu Province, were arrested for possessing booklets containing speeches of the Dalai Lama, according to the Tibetan Center for Human Rights and Democracy. Jigme Jamtruk was reportedly released on bail after 13 days' detention; the whereabouts of Kunchok Choephel Labrang remained unknown at year's end.

On June 27, Yeshe Gyatso, a member of the Chinese People's Political Consultative Conference, and Tibet University Student Dawa Tashi were detained on charges of "splitting the motherland, undermining unity of nationalities, and violating the constitution." Government officials stated that Dawa Tashi "confessed" and was released. Yeshe Gyatso subsequently was sentenced to 6 years' imprisonment, but was released in November in ill health.

In August, the Government announced that two monks, Jamphel Jangchub and Ngawang Oezer, imprisoned at Lhasa's TAR Prison for joining a pro-independence group in Drepung Monastery in the 1980s, received sentence reductions of 3 and 2 years respectively.

On August 29, five monks and an unidentified lay artist received sentences of 1 to 12 years' imprisonment for alleged separatist activities, including painting a Tibetan national flag, possessing pictures of the Dalai Lama, and distributing materials calling for Tibetan independence. The monks were Zoepa, Tsogphel, Sherab Dargye (Sherdar), Oezer, and Migyur, all from Khangmar Monastery in Ngaba Prefecture, Sichuan Province.

On October 2, Nyima Dragpa, a monk from Nyatso Monastery, died in custody, allegedly from injuries sustained during severe beatings.

Many political prisoners remained in detention at year's end, including Tibetan nun Phuntsog Nyidrol, who was serving a long prison term for political offenses; Sonam Phuntsog, a Buddhist teacher in Kardze County, Sichuan Province, arrested in 1999 after leading a protest; Lhasa orphanage owners Jigme Tenzin and Nyima Choedron, convicted in 2002 of "espionage and endangering state security"; and approximately 10 persons detained in October 2002 in Kardze Town, Sichuan Province, in connection with long-life ceremonies for the Dalai Lama sponsored by foreign Tibetan Buddhists. The whereabouts of two other nuns, Jangchub Drolma and Chogdrub Drolma, remained unknown at year's end. They previously were confirmed to be incarcerated in Drapchi Prison.

Chadrel Rinpoche, released in January 2002 after 6 years and 6 months in prison for leaking information about the selection of the Panchen Lama, was reportedly still under house arrest near Lhasa.

The lack of independent access to prisoners and prisons made it difficult to ascertain the number of Tibetan political prisoners or to assess the extent and severity of abuses. The Tibet Information Network (TIN) estimated that approximately 150 Tibetans were imprisoned on political grounds, 75 percent of whom were monks or nuns. Approximately 60 political prisoners, most serving sentences for the now-repealed crime of counterrevolution, remained in TAR Prison in Lhasa. TIN's analysis indicated that the majority of Tibetan political prisoners were incarcerated in Lhasa and western Sichuan Province. While political imprisonment has declined in the TAR since its peak in 1996, since 1999 there has been an upsurge of detentions in certain areas of Sichuan Province, particularly in Kardze Prefecture.

There were credible reports that prisoners continued to be mistreated. For example, Tibetans repatriated to China from Nepal in May reportedly suffered torture, including electric shocks, exposure to cold, and severe beatings, and were forced to perform heavy physical labor. Their family members also were pressured for bribes to secure their release. Prisoners were subjected routinely to "political investigation" sessions and were punished if deemed to be insufficiently loyal to the state. Unrepentant political prisoners at the TAR Prison were sent to "isolation cells" for 6 months to 1 year to "break their spirit."

Legal safeguards for Tibetans detained or imprisoned were the same as those in the rest of China and were inadequate in both design and implementation. Most judges had little or no legal training. Authorities worked to address this problem through increased legal education opportunities. Since opening the first legal assistance center in the TAR in 2001, the Government claims clients involved in 149 cases, including 101 criminal cases, have received assistance. However, for most persons accused of political crimes, trials were cursory and were closed if issues of state security were involved. Under Chinese law, maximum prison sentences for crimes such as “endangering state security” and “splitting the country” were 15 years for each count, not to exceed 20 years in total. Such cases mainly concerned actions perceived to be in support of Tibetan independence, and activities did not have to be violent to be illegal or to draw a heavy sentence.

Family planning policies permitted Tibetans, like members of other minority groups, to have more children than Han Chinese. Urban Tibetans, including Communist Party members, were generally permitted to have two children. Rural Tibetans were encouraged, but not required, to limit births to three children. These regulations were not strictly enforced.

The Government regulated foreign travel to the TAR, requiring travelers to purchase tours through government-approved tourist agencies for entry to the TAR, and to secure permits for travel to some regions within the TAR. Official visits to the TAR were supervised closely and afforded delegation members very few opportunities to meet local persons not previously approved by the local authorities. Travel by foreigners and foreign NGO staff in the TAR was closely monitored, although some foreign NGOs reported fewer restrictions on their travel than in previous years.

Some Tibetans continued to report difficulties in obtaining passports, particularly in rural areas. The Government placed restrictions on the movement of Tibetans during sensitive anniversaries and events and increased controls over border areas at these times. There were reports of arbitrary detention of persons, particularly monks, returning to China from Nepal. Detentions generally lasted for several months, although in most cases no formal charges were brought.

On May 31, the Government successfully pressured the Government of Nepal to repatriate to China 18 Tibetans, including several minors, who had crossed into Nepal from China apparently hoping to transit Nepal to India. Contrary to established practice, the office of the U.N. High Commissioner for Refugees (UNHCR) in Kathmandu was denied access to the group. The 18 Tibetans were forced onto a bus and driven back across the border into China, where they were detained, first at a border post and later at a prison in Shigatse. NGO reports indicated that up to seven individuals remained in detention until at least November. The detainees reportedly suffered severe torture, and the monks in the group were subjected to more beatings than the others. Most of the detainees also were pressured for bribes. Chinese officials maintained that 14 individuals were released shortly after their return to China. While two remained at the border post for medical reasons and two were detained for a time on suspicion of criminal behavior, officials stated that no criminal charges were filed and all of the individuals were released by year's end. According to NGO reports, approximately 400–500 Tibetans apprehended at border crossings reportedly were held at the “Tibet's New Reception Center” prison in Shigatse at year's end.

Forced labor reportedly was used in some prisons, detention centers, reeducation-through-labor facilities, and at work sites where prisoners were used as workers. Chinese law states that prisoners may be required to work up to 12 hours per day, with 1 rest day every 2 weeks, but these regulations often were not enforced. Prisoners at many sites received some remuneration and could earn sentence reductions by meeting or exceeding work quotas. At TAR Prison in Lhasa, male prisoners reportedly worked in vegetable fields and in factories. Female prisoners cleaned toilets and also were involved in tailoring, cleaning, or spinning and sorting wool to be used in the production of carpets and sweaters.

Freedom of Religion.—In the TAR, the overall level of religious repression, while less oppressive for lay followers than in the past, remained high. The Government maintained tight controls on many monasteries and on monks and nuns. Although authorities permitted some traditional religious practices and public manifestations of belief, they promptly and forcibly suppressed activities viewed as vehicles for political dissent, such as religious activities perceived as advocating Tibetan independence or any form of separatism (which the Government describes as “splittist”). Security was intensified during the Dalai Lama's birthday, sensitive anniversaries, and festival days in the TAR and in some other Tibetan areas as well. Tibetan Buddhists in many areas outside the TAR had fewer restrictions on their freedom to practice their faith.

Most abbots and monks in Tibetan areas outside the TAR reported that they had greater freedom to worship, to conduct religious training, and to manage the affairs of their monasteries than their coreligionists within the TAR; however, restrictions remained. There were reports that some monks who had contacts while abroad with the Tibetan “government-in-exile” in India were prevented from returning to their home monasteries.

In 2002 and again during the year, the Government extended invitations to emissaries of the Dalai Lama to visit Tibetan and other areas of China. In September 2002, Lodi Gyari and Kelsang Gyaltzen, the Dalai Lama’s representatives to the United States and Europe respectively, traveled to Beijing, Lhasa, and other cities where they met with a number of government officials. These were the first formal contacts between the Dalai Lama’s representatives and the Government since 1993. They made a second trip to China in June 2003 to meet with Chinese officials and visited Shanghai, Beijing, and Tibetan areas in Yunnan Province. Additionally, Gyalo Thondup, the Dalai Lama’s elder brother, visited in July 2002, making his first trip to the TAR since leaving in 1959. The Government asserted that the door to dialogue and negotiation was open, provided that the Dalai Lama publicly affirm that Tibetan areas and Taiwan are inseparable parts of China. In September, during a visit by the Dalai Lama to the United States, the Government resumed its practice of harshly criticizing what it perceived as the Dalai Lama’s political activities and his leadership of a government-in-exile.

Government officials maintained that possessing or displaying pictures of the Dalai Lama is not illegal, but pictures of the Dalai Lama were not openly displayed in major monasteries. Pictures could not be purchased openly in the TAR, and possession of such pictures has triggered arrests in the past; therefore, Tibetans in the TAR were extremely cautious about displaying them. Diplomatic observers saw pictures of a number of Tibetan religious figures, including the Dalai Lama, openly displayed in Tibetan areas outside the TAR. However, in the months following an August incident in which unknown individuals hung the banned Tibetan national flag from a radio tower, private displays of Dalai Lama pictures were confiscated in urban areas of two Sichuan counties.

Since the early 1990s, an average of 2,500 Tibetans have entered Nepal each year seeking refugee status to escape conditions in Tibet. The UNHCR reported that 2,248 Tibetans presented themselves at the UNHCR office in Nepal during the year, of whom 1,815 were found to be “of concern” and provided with basic assistance; the remaining 433 departed for India without being registered or processed by the UNHCR. In September, TAR Public Security Bureau officials told a visiting foreign delegation that 1,000 residents of the TAR receive passports each year, and that residents make 2,000–3,000 trips abroad each year. However, some Tibetans, particularly those from rural areas, continued to report difficulties in obtaining passports. Due in part to such difficulties and in part to the difficulty many Chinese citizens of Tibetan ethnicity encountered obtaining entry visas for India, it was difficult for Tibetans to travel to India for religious purposes. Nevertheless, many Tibetans, including monks and nuns, visited India via third countries and returned to China after temporary stays. Returned exiles were compelled to avoid discussing sensitive political issues.

Chinese officials stated that the TAR has 46,380 Buddhist monks and nuns and 1,787 monasteries, temples, and religious sites. Officials have cited almost identical figures since 1996, although the numbers of monks and nuns dropped at many sites as a result of the mid-1990s “patriotic education” campaign and the expulsion from monasteries and nunneries of many monks and nuns who refused to denounce the Dalai Lama or who were found to be “politically unqualified.” These numbers represent only the TAR, where the number of monks and nuns was very strictly controlled; over 150,000 Tibetan Buddhist monks and nuns lived in Tibetan areas outside the TAR, according to informed estimates.

The Government continued to oversee the daily operations of major monasteries. The Government, which did not contribute to the monasteries’ operating funds, retained management control of monasteries through the Democratic Management Committees (DMCs) and local religious affairs bureaus. Regulations restricted leadership of many DMCs to “patriotic and devoted” monks and nuns, and specified that the Government must approve all members of the committees. At some monasteries, government officials also sat on the committees.

In recent years, DMCs at several large monasteries began to use funds generated by the sales of entrance tickets or donated by pilgrims for purposes other than the support of monks engaged in full-time religious study. As a result, some “scholar monks” who had formerly been fully supported had to engage in income-generating activities. Some experts were concerned that, as a result, fewer monks will be qualified to serve as teachers in the future. The erosion of the quality of religious teach-

ing in the TAR and other Tibetan areas continued to be a focus of concern. The quality and availability of high-level religious teachers in the TAR and other Tibetan areas was inadequate; many teachers were in exile, older teachers were not being replaced, and those remaining in Tibetan areas outside the TAR had difficulty securing permission to teach in the TAR.

In addition, in many places, particularly in the TAR, the Government continued to discourage the proliferation of monasteries, which it contended were a drain on local resources and a conduit for political infiltration by the Tibetan exile community.

The Government stated that there were no limits on the number of monks in major monasteries, and that each monastery's DMC decided independently how many monks the monastery could support. However, many of these committees are government-controlled, and in practice, the Government imposed strict limits on the number of monks in many major monasteries, particularly in the TAR. The Government had the right to disapprove any individual's application to take up religious orders; however, these restrictions were not uniformly enforced. In some areas, it is against regulations to join a monastery before the age of 18, but boys as young as 11 continued to enter some monasteries.

Government officials stated that the "patriotic education" campaign, which began in 1996, had ended prior to the reporting period. Officials acknowledged, however, that monks and nuns continued to undergo mandatory political education or "patriotic education" on a regular basis at their religious sites. Training sessions were aimed at enforcing compliance with government regulations, and either cowing or weeding out monks and nuns who refused to follow Party directives and who remained sympathetic to the Dalai Lama. Monks and nuns were often required to demonstrate their patriotism by signing a declaration by which they agreed to reject independence for Tibet; reject Gendun Choekyi Nyima, the boy recognized by the Dalai Lama as the 11th incarnation of the Panchen Lama; reject and denounce the Dalai Lama; recognize the unity of China and Tibet; and vow not to listen to the Voice of America or Radio Free Asia. During the patriotic education campaign, non-compliant monks and nuns were expelled from religious sites, while others chose to depart rather than denounce the Dalai Lama. Because of these efforts to control the Buddhist clergy and monasteries, anti-government sentiment remained strong.

On May 27, authorities reportedly detained and released monks Tamding, Palzin, and Shongdu, and lay driver Ngodup for their involvement in a December 2002 protest against building demolitions at the Serthar Buddhist Study Institute, also known as the Larung Gar monastic encampment, located in Sichuan Province's Kardze Prefecture. Since demolishing buildings and expelling several thousand monks and nuns in 2001, authorities continued to exercise tight control over the community. Authorities allowed only approximately 1,000 monks and nuns to remain at the site, strictly controlled the number of Han Chinese practitioners, and refused permits for further construction or maintenance of the facility. The Government maintained that the facility, which housed the largest concentration of monks and nuns in the country, was reduced in size for sanitation and hygiene reasons. Foreign observers believed that the authorities acted against the Institute because of its size and the influence of its charismatic founder, Khenpo Jigme Phuntsog.

Most Tibetans practiced Buddhism to some degree. This held true for many Tibetan government officials and Communist Party members. In the TAR alone, some 615 Tibetan Buddhist religious figures held positions in local People's Congresses and committees of the Chinese People's Political Consultative Conference. However, the Government continued to insist that Communist Party members and senior government employees adhere to the Party's code of atheism, and routine political training for government cadres continued to promote atheism. Authorities also continued to pressure public sector employees, through political training and threats of termination, to demonstrate their loyalty to the State and refrain from actions that could be construed as lending explicit or tacit support to the Dalai Lama. Public sector employees in the TAR also reportedly were pressured not to send their children to India to be educated.

A large percentage of the members of the religious affairs bureaus were non-Tibetans, and all were members of the Communist Party.

On July 6, Tibetans were prohibited from actively celebrating the Dalai Lama's birthday. However, celebrations of major religious festivals such as Monlam, Sagadawa, and the Drepung Shodon were marked by a somewhat more open atmosphere and a diminished security presence.

In September, two attendants of the Karmapa Lama detained in 2002 were released. The Karmapa Lama, Urgyen Trinley Dorje, the leader of Tibetan Buddhism's Karma Kagyu school and one of the most influential religious figures of Tibetan Buddhism, secretly left the TAR for India in December 1999. In several public

statements, the Karmapa Lama asserted that he left because of controls on his movements and the Government's refusal to allow him to go to India to be trained by his spiritual mentors or to allow his mentors to come to him. During the year, authorities continued to restrict access to Tsurphu Monastery, the seat of the Karmapa Lama, and TIN reported that no new monks were being permitted to enter the monastery.

Since the Karmapa Lama left the TAR in 1999, the authorities have increased efforts to exert control over the process for finding and educating reincarnate lamas. The Government approved the seventh reincarnation of Reting Rinpoche in January 2000, but many of the monks at Reting Monastery reportedly did not accept the child as Reting Rinpoche because the Dalai Lama did not recognize his selection. Another young reincarnate lama, Pawo Rinpoche, who was recognized by the Karmapa Lama in 1994, lived under strict government supervision at Nenang Monastery. NGOs reported that he was denied access to his religious tutors and required to attend a regular Chinese school. During the year, foreign delegations were refused permission to visit Nenang Monastery.

The Panchen Lama is Tibetan Buddhism's second most prominent figure, after the Dalai Lama. The Government continued to insist that Gyaltzen Norbu, the boy it selected in 1995, is the Panchen Lama's 11th reincarnation. Gyaltzen Norbu made his second highly orchestrated visit to Tibetan areas in August, and his public appearances were marked by a heavy security presence. The Government refused to recognize the Dalai Lama's choice of another boy, Gendun Choekyi Nyima, who first disappeared in 1995, when he was 6 years old, and it tightly controlled all aspects of the "official" Panchen Lama's life. On August 5, the Government announced that Gendun Choekyi Nyima is "now a student and is studying well," but continued to ban pictures of the boy and refused all requests from the international community for access to confirm his whereabouts and well-being. The vast majority of Tibetan Buddhists continued to recognize Gendun Choekyi Nyima as the Panchen Lama. The Communist Party urged its members to support the "official" Panchen Lama, and government authorities at both the regional and city levels had pictures of the boy printed for use in public and private religious displays; however, very few photographs of him were on display. Instead, more prominently displayed were pictures of the 10th Panchen Lama, which some foreign observers interpreted as a rejection of Gyaltzen Norbu.

The Government stated that since 1949 it had contributed \$72.64 million (RMB 600 million) toward the restoration of historical buildings in the TAR, including over 1,400 Tibetan Buddhist sites which were destroyed before and during the Cultural Revolution. The Government has carried out similar restoration efforts in Tibetan areas outside the TAR, although aggregate figures are not known. However, many hundreds of monasteries were never restored, and others remained in partial ruins. Government funding of restoration efforts ostensibly was done to support the practice of religion, but also was done in part to promote the development of tourism. Many recent restoration efforts were funded privately, although a few religious sites also received government support for reconstruction projects.

Economic Development and Protection of Cultural Heritage.—According to China's 2000 census, the population of Tibetans in the TAR was 2,427,168. The population of Tibetans in autonomous prefectures and counties outside the TAR was 2,927,372. The TAR is one of China's poorest regions, and ethnic Tibetans are one of the poorest groups. The Central Government and other provinces of China heavily subsidized the TAR economy, which, according to official government statistics, grew by an average annual rate of over 10 percent for the last decade. Over 90 percent of the TAR's budget came from outside sources, and residents of the TAR benefited from a wide variety of favorable economic and tax policies. Tibetan autonomous areas outside the TAR benefited to varying degrees from similar favorable policies. Government development policies helped raise the living standards of most Tibetans, particularly by providing better transportation and communications facilities. However, while overall standards of living have risen, Tibetans' real incomes remained well below those of persons in other parts of the country, and Han Chinese benefited disproportionately from the Government's development policies in Tibetan areas. Marriage and family planning policies, and, to a lesser extent, university admissions and government employment policies, are less restrictive for Tibetans as one of China's 55 minority ethnic groups. According to official government statistics, 79.4 percent of all government employees in the TAR were Tibetans. Nevertheless, many positions of political authority were held by Han Chinese, and most key decisions in the TAR were made by Han. A similar situation pertained in Tibetan areas outside the TAR.

The Dalai Lama, Tibetan experts, and other observers expressed concern that development projects and other Central Government policies initiated in 1994 and re-

emphasized and expanded at the “Fourth Tibet Work Conference” in 2001, including the Qinghai-Tibet railroad, would continue to promote a considerable influx of Han, Hui, and other ethnic groups into the TAR. They feared that the TAR’s traditional culture and Tibetan demographic dominance would be overwhelmed by such migration.

Some Tibetans reported that they experienced discrimination in employment for some urban occupations, and claimed Han were hired preferentially for many jobs and received greater pay for the same work. For example, of the 38,000 persons working on the Qinghai-Tibet railroad, only 6,000 were Tibetan. Some Tibetans reported that it was more difficult for Tibetans than Han to get permits and loans to open businesses. In addition, the widespread use of the Chinese language in urban areas and many businesses limited opportunities for many Tibetans. Fundamental worker rights recognized by the International Labor Organization, including the right to organize and the right to bargain collectively, which were broadly denied in the rest of China, were also denied in Tibetan areas.

Although Chinese officials asserted that 92 percent of the officially registered population in the TAR was Tibetan, they acknowledged that these figures did not include the large number of “temporary” Han residents, including military and paramilitary troops and their dependents, many of whom had lived in the TAR for years. Furthermore, freer movement of persons throughout China, government-sponsored development, and the prospect of economic opportunity in the TAR have led to a substantial increase in the non-Tibetan population, including both China’s Muslim Hui minority and Han Chinese, in Lhasa and other urban areas, as migrant workers from China’s large transient population sought to take advantage of the new economic opportunities. Most of these migrants professed to be temporary residents, but small businesses run by Han and Hui citizens, mostly restaurants and retail shops, predominated in almost all TAR cities. Many observers estimated that more than half of Lhasa’s population was Han Chinese, and even official estimates put the number of temporary Han Chinese residents in Lhasa at over 100,000 out of a total population of 409,500. Elsewhere in the TAR, the Han percentage of the population was significantly lower. In rural areas, the Han presence was often negligible.

Rapid economic growth, the expanding tourism industry and the introduction of more modern cultural influences also have disrupted traditional living patterns and customs and threatened traditional Tibetan culture. In Lhasa, the Chinese cultural presence was obvious and widespread. In 2002, many traditional Tibetan-style buildings located in the UNESCO-protected downtown area of Lhasa were demolished. The Chinese language was spoken widely, and Chinese characters were used in most commercial and official communications.

Although the TAR Government passed a law in March 2002 stating the equality of Tibetan and Chinese as official languages and promoting the development of Tibetan, the dominant position of the Chinese language in government, commerce, and academia undermined the ability of younger Tibetans to speak and read their native language.

According to 2002 official government statistics, 32.5 percent of persons in the TAR were illiterate or semi-literate. However, illiteracy and semi-literacy rates were as high as 90 percent in some areas. Government statistics indicated that 85.8 percent of eligible children attended primary school, and the Government announced plans for 95 percent of children in the TAR to receive 6 years of compulsory education by 2005; however, in practice, many pupils in rural areas received only 1 to 3 years of education.

In the TAR and other Tibetan areas, many primary schools at the village level followed a Tibetan curriculum. According to local education officials, Tibetan was the main language of instruction in 60 percent of middle schools in the TAR, predominantly in more remote areas, although there were also special classes offering instruction in Chinese. However, some NGOs maintained that the official figures were inaccurate, claiming that fewer Tibetan children received instruction in the Tibetan language. Most of those who attended TAR regional high schools continued to receive some of their education in Tibetan, but knowledge of Chinese was essential as most classes were in Chinese. Tibetan curriculum high schools existed in a few areas. The Government continued to allocate funds to enable Tibetan students to study in secondary schools elsewhere in China. According to government figures, there were 13,000 Tibetan students from the TAR studying in approximately 100 schools in 26 different parts of China. Knowledge of Chinese usually was necessary to receive a higher education, although some colleges established to serve ethnic minorities allowed for study of some subjects in Tibetan. In general, opportunities to study at privately funded Tibetan-language schools or to receive a traditional Tibetan-language religious education were greater in Tibetan areas outside the TAR.

On July 29, authorities reportedly closed the Ngaba Kirti Monastic School in Ngaba Prefecture, Sichuan Province, and summoned its chief patron, Soepa Nagur, to Sichuan's capital city Chengdu, according to the Tibetan Center for Human Rights and Democracy. Founded in 1994 with private funds to provide traditional Tibetan and monastic education to rural residents, the school attracted the attention of local authorities in 1998, who forced the school to change its name, include secular subjects in its curriculum, and finally merge with another nearby institution.

Authorities reportedly required professors, particularly those from Tibet University's Tibetan language department, which was viewed as a potential source of dissent, to attend political education sessions and limited course studies and materials in an effort to prevent separatist political and religious activity on campus. Many ancient or religious texts were banned from the curriculum for political reasons. Tibet University was established to train Tibetan teachers for the local educational system; however, Han representation in the student body and faculty far exceeded their proportion of the total TAR population. Although Tibetans were given admission preference, Han Chinese students frequently gained admission because they scored higher on admission exams due to stronger Chinese-language skills and educational backgrounds.

Malnutrition among Tibetan children continued to be widespread in many areas of the TAR. This was particularly true of rural areas and resulted in high rates of stunted growth among children. Nutritional deficiency ailments, such as goiter (from a lack of iodine), night blindness (from a lack of Vitamin A), and rickets were said to be relatively common among children in some areas. Special programs, sponsored by both government bodies and foreign NGOs, were in place in some areas to address these problems.

Prostitution was a growing problem in Tibetan areas, as it was elsewhere in the country. Hundreds of brothels operated semi-openly in Lhasa. Up to 10,000 commercial sex workers may have been employed in Lhasa alone. Some of the prostitution occurred at sites owned by the Party, the Government, and the military. Most prostitutes in the TAR were Han women, mainly from Sichuan. However, some Tibetans, mainly young girls from rural or nomadic areas, also worked as prostitutes. The incidence of HIV/AIDS among prostitutes in Tibetan areas was unknown, but lack of knowledge about HIV transmission and economic pressures on prostitutes to engage in unprotected sex made an increase in the rate of HIV infection likely.

In July, the TAR Tourism Bureau confirmed that it had fired a number of Tibetan tour guides educated in India or Nepal, and brought 100 tour guides from other provinces to work in the TAR during the summer tourist season. Government officials stated that all tour guides working in the TAR will be required to seek employment with the Tourism Bureau and to pass a licensing exam on tourism and political ideology. The Government's stated intent in dismissing the Tibetans was to ensure that all tour guides provide visitors with the Government's position opposing Tibetan independence and the activities of the Dalai Lama. The Tourist Bureau's monopoly does not extend to Tibetan areas outside the TAR, and some tour guides educated abroad reportedly moved to those areas, where they could offer their services more freely.

The Tibetan language services of Voice of America and Radio Free Asia (RFA), as well as of the Oslo-based Voice of Tibet, suffered from the same jamming of their frequencies by Chinese authorities as their Chinese language services. However, Tibetans were able to listen to the broadcasts at least some of the time. RFA stated that Tibetans were subject to intimidation and fines for listening to foreign-language broadcasts.

Although the Government made efforts in recent years to restore some of the physical structures and other aspects of Tibetan Buddhism and Tibetan culture damaged or destroyed during the Cultural Revolution, repressive social and political controls continued to limit the fundamental freedoms of Tibetans and risked undermining Tibet's unique cultural, religious, and linguistic heritage.

HONG KONG

Hong Kong is a Special Administrative Region (SAR) of the People's Republic of China (PRC) and maintains a high degree of autonomy except in matters of defense and foreign affairs. It has well-established institutions that support the rule of law and a vigorous civil society. The Basic Law, the SAR's constitution, was approved by the PRC in 1990. It provides for the protection of fundamental rights and calls for progress toward universal suffrage and further democratization after a 10-year period, starting with Hong Kong's July 1, 1997, reversion to Chinese sovereignty. The Chief Executive is chosen by an 800-person selection committee composed of in-

dividuals who are either directly elected, indirectly elected, or appointed. The Chief Executive supervises a cabinet of principal officers whom he appoints. The power of the Legislative Council (legislature) is significantly circumscribed by the Basic Law. The legislature is composed of 24 directly elected members representing geographic districts, 30 indirectly elected members representing functional (occupational) constituencies, and 6 members elected indirectly by an election committee. Majorities are required in both the geographic and the functional constituencies to pass legislation introduced by individual legislators. Members may not initiate legislation involving public expenditure, political structure, government operations, or government policy. By law and tradition, the judiciary is independent and the Basic Law vests Hong Kong's highest court with the power of final adjudication; however, under the Basic Law, the Standing Committee of the PRC's National People's Congress (NPC) has the power of final interpretation of the Basic Law.

A well-supervised police force under the firm control of civilian authorities maintained public order. An Independent Police Complaints Council, made up of public members appointed by the Chief Executive, monitored and reviewed the work of an office that investigated public complaints against the police. The 4,000 Chinese troops sent to Hong Kong in 1997 to replace the British military garrison have maintained a low profile and have not performed or interfered in police functions.

Hong Kong, with a free market economy, is an international trade, shipping, and finance center and is a principal platform for trade and investment with the PRC. The economy has suffered 6 years of deflation. However, despite the Severe Acute Respiratory Syndrome (SARS) outbreak, recovery since May led to an annual gross domestic product (GDP) growth rate of approximately 2.25 percent. Per capita GDP was approximately \$24,000; the population was approximately 6.8 million.

The Government generally respected the human rights of residents, and the law and judiciary provided effective means of dealing with individual instances of abuse. Human rights problems that existed both before and after the handover included: Limitations on residents' ability to change their government and limitations on the power of the legislature to affect government policies; violence and discrimination against women; discrimination against ethnic minorities; restrictions on workers' rights to organize and bargain collectively; and trafficking in persons for the purposes of forced labor and prostitution. Despite the ban on the Falun Gong in mainland China, the Falun Gong remained legally registered and practitioners continued their activities in Hong Kong.

In September, the Government withdrew from legislative consideration proposed national security legislation required by Article 23 of the Basic Law. The withdrawal followed a series of large protests, including a July 1 demonstration in which approximately 500,000 persons participated, and intense public debate about the impact of such legislation on civil liberties and fundamental freedoms. Article 23 calls for the Government to draft and implement laws that criminalize subversion, secession, treason, sedition, and theft of state secrets, and to criminalize links with foreign political organizations that are harmful to national security. During the year, public demands also increased for the implementation of universal suffrage in the 2007 Chief Executive election and the 2008 Legislative Assembly election. In response, the Government announced that it would provide a timetable for public consultations by the end of the year. The Government's plan was to commence consultations early in 2004 and 2005 and enact necessary legislation in 2006. However, following consultations with the PRC Government, a timetable for public consultations was not announced at year's end.

RESPECT FOR HUMAN RIGHTS

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

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

During the first 6 months of the year, there were three deaths in prison, which were determined to be suicides. An inquest into a 2001 case of death in police custody concluded that the cause of death was unknown.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law forbids torture and other abuse by the police. There were allegations of assault by police officers during the year. The law stipulates punishment for those who violate these prohibitions. Disciplinary action can range from warnings to dismissal. Criminal proceedings may be undertaken independently of the disciplinary process. Allegations of excessive use of force are required to be investigated by the Complaints Against Police Office (CAPO), whose work is monitored and reviewed by

the Independent Police Complaints Council (IPCC), a body composed of public members appointed by the Chief Executive.

During the year, CAPO received 427 allegations of assault by police officers against persons in custody and 267 allegations of assault against persons not in custody, out of a total of 42,051 arrests. Of the 427 allegations of assault by police officers against persons in custody, in 196 cases investigations were completed and endorsed by the IPCC, and none was substantiated: 126 were withdrawn, 54 were deemed "not pursuable," 13 were judged to be false, and 3 were judged "unsubstantiated." The remaining 231 cases were pending at year's end. Of the 267 allegations of assault against persons not in custody, there were 141 cases in which investigations were completed and endorsed by the IPCC, while none were substantiated: 86 were withdrawn, 33 were deemed "not pursuable," 1 was judged to be "no fault," 8 were judged to be false, and 13 were judged "unsubstantiated." The remaining 126 cases were pending at year's end. At year's end, in response to concerns about the police being responsible for investigating their own misconduct, the Government was drafting a bill to provide a statutory basis for the IPCC, which would allow it to set up its own secretariat, receive funding to hire its own permanent staff, and initiate investigations.

In 2001, six police officers accused of assaulting a television cameraman during interrogation were acquitted in District Court. An internal police disciplinary inquiry into the case was completed during the year. All of the officers received letters of warning in their service records and one of the six, a senior inspector, was convicted and issued a caution.

Prison conditions generally met international standards. Men and women were housed separately, juveniles were housed separately from adults, and pretrial detainees were held separately from convicted prisoners. For the first 6 months of the year, the average occupancy rate for Hong Kong's 24 prisons was 107 percent. Overcrowding was most serious in maximum-security prisons, which operated at an average occupancy rate of 126 percent. The Government continued its efforts to address the problem of prison overcrowding by remodeling existing buildings to provide space for additional prisoners and redistributing the prison population. In addition, completion of the Immigration Department's Detention Center in Tuen Mun in 2005 is expected to provide 400 additional places and eliminate the housing of immigration offenders in prison or detention facilities managed by the Correctional Services Department.

The Government permitted prison visits by human rights observers. Local justices of the peace regularly inspected prisons, and most of these visits were unannounced.

d. Arbitrary Arrest, Detention, or Exile.—Common law, legal precedent, and the Basic Law provide substantial and effective legal protection against arbitrary arrest or detention, and the Government generally observed these provisions in practice. Suspects must be charged within 48 hours or released. In 2002, the average length of pre-conviction incarceration did not exceed 50 days.

Corruption was not a significant problem within the SAR's well-supervised police force, and police officers were subject to disciplinary review by CAPO and IPCC in cases of alleged misconduct (see Section 1.c.).

The law does not provide for, and the Government did not use, forced exile.

e. Denial of Fair Public Trial.—The Basic Law provides for an independent judiciary, and the Government generally respected this provision in practice. The judiciary, underpinned by the Basic Law's provision that Hong Kong's common law tradition be maintained, generally provided citizens with a fair and efficient judicial process. Under the Basic Law, the courts may interpret those provisions of the Basic Law that address matters within the limits of the autonomy of the region. The courts also may interpret provisions of the Basic Law that touch on PRC central government responsibilities or on the relationship between the central authorities and the SAR, but before making final judgments on these matters, which are unappealable, the courts must seek an interpretation of the relevant provisions from the Standing Committee of the PRC's National People's Congress. The Basic Law requires that when the Standing Committee makes an interpretation of Basic Law provisions, the courts, in applying those provisions, "shall follow the interpretation of the Standing Committee." Judgments previously rendered are not affected. The National People's Congress' mechanism for interpretation is its Committee for the Basic Law, composed of six mainland and six Hong Kong members. The Hong Kong members are nominated by the Chief Executive, the President of the Legislative Council, and the Chief Justice. Human rights and lawyers' organizations long have expressed concern that this process, which circumvents the Court of Final Appeal's power of final adjudication, could be used to limit the independence of the judiciary or could degrade the courts' authority.

In a controversial 1999 “right of abode” case (concerning the right of certain persons to reside in Hong Kong), the Government, after losing the case in the Court of Final Appeals, sought a reinterpretation of relevant Basic Law provisions from the Standing Committee of the PRC’s National People’s Congress. This action raised questions about the independence and ultimate authority of the judiciary. After the controversy, the Government expressed its intention to make recourse to the NPC interpretation mechanism a rare and exceptional act, and there have been no such occurrences since the one instance in 1999.

The Court of Final Appeal is the SAR’s supreme judicial body. An independent commission nominates judges; the Chief Executive is required to appoint those nominated, subject to endorsement by the legislature. Nomination procedures ensure that commission members nominated by the private bar have a virtual veto on the nominations. The Basic Law provides that, with the exception of the Chief Justice and the Chief Judge of the High Court, who are prohibited from residing outside of Hong Kong, foreigners may serve on the courts. In 2002, approximately 40 percent of judges were expatriates from other common law jurisdictions. Judges have security of tenure until retirement age (either 60 or 65, depending on the date of appointment).

Under the Court of Final Appeal is the High Court, composed of the Court of Appeal and the Court of First Instance. Lower judicial bodies include the District Court (which has limited jurisdiction in civil and criminal matters), the magistrates’ courts (which exercise jurisdiction over a wide range of criminal offenses), the Coroner’s Court, the Juvenile Court, the Lands Tribunal, the Labor Tribunal, the Small Claims Tribunal, and the Obscene Articles Tribunal.

The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right in practice. Trials were by jury except at the magistrate-court level, and the judiciary provided citizens with a fair and efficient judicial process.

Under corruption prosecution rules, there is a presumption of guilt in official corruption cases. Under the Prevention of Bribery Ordinance, a current or former government official who maintains a standard of living above that which is commensurate with his official income or who is in control of monies or property disproportionate to his official income is, unless he can satisfactorily explain the discrepancy, guilty of an offense. The courts have upheld this practice.

According to the Basic Law, English may be used as an official language by the executive, legislative, and judicial branches. For historical reasons and because of the courts’ reliance on common law precedents, almost all civil cases and most criminal cases were heard in English. In recent years, the Government has developed a bilingual legal system. It has increased the number of officers in the Legal Aid Department proficient in Chinese and extended the use of bilingual prosecution documents and indictments. All laws are bilingual, with the English and Chinese texts being equally authentic. All courts and tribunals may operate in either Chinese or English. Judges, witnesses, the parties themselves, and legal representatives each may decide which language to use at any point in the proceedings.

Some human rights groups alleged that the Government has not protected vigorously enough the interests of Hong Kong residents arrested and imprisoned in mainland China. Hong Kong authorities stated that there is no agreement allowing them access to Hong Kong residents arrested or detained in mainland China, even after conviction. Under an agreement signed in 2000 and in effect since 2001, PRC and SAR public security authorities are required to notify each other of certain categories of detentions of each other’s residents. A human rights group alleged that the Government has not sought information concerning Hong Kong residents convicted prior to 2001 and still serving sentences on the mainland. An estimated 500–1,000 Hong Kong residents were imprisoned in mainland China at year’s end, including political prisoners such as Xu Zerong, a Hong Kong permanent resident teaching at universities in southern China who was sentenced in 2002 to 13 years in prison for “illegally providing state secrets” by sending confidential reference materials on the Korean War to a contact in Hong Kong.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The law prohibits arbitrary interference with privacy, family, home, and correspondence, and the Government generally respected these prohibitions in practice. Interception of communications was conducted under the Telecommunications Ordinance and the Post Office Ordinance. Wiretaps require high-level authorization for interception operations, but a court-issued warrant is not required. The Government did not release information regarding how often the Chief Executive used his powers to authorize telephone wiretaps and interception of private mail.

The Office of the Privacy Commissioner for Personal Data (PCO), established under the Personal Data (Privacy) Ordinance (PDPO), is tasked with preventing the misuse and disclosure of data such as medical and credit records. The PDPO also prohibits matching sets of personal data without the consent of the subject individual or the commissioner, although some government departments were exempted in order to combat social welfare abuse and tax evasion. Some violations of the PDPO constitute criminal offenses. In other cases, an injured party may seek compensation through civil proceedings. If the PCO believes that violations may continue or be repeated, it may issue enforcement notices to direct remedial measures. Between June 2002 and June 2003, the PCO investigated 1,111 complaints of suspected breaches of the ordinance, completing action on 1,016. The PCO found violations of the PDPO in 34 of these cases, with none resulting in prosecution. In 153 of the cases, contravention of the PDPO requirements was not established due to insufficient evidence, while 557 cases were resolved or rejected after preliminary inquiries. The remaining 272 cases were not pursued because complainants were unreachable or withdrew their complaints during the course of investigation. The PDPO is not applicable to PRC government organs in Hong Kong. At year's end, the Government was still considering whether it should be made applicable to PRC bodies. Under certain exemptions for purposes related to safeguarding the security, defense, or international relations of Hong Kong, and for the prevention, detection, or prosecution of a crime, Hong Kong authorities may be allowed to transfer personal data to a PRC body.

In 2002, the Government introduced a draft privacy code that sought to outlaw secret video cameras and monitoring of e-mail and phone calls in the workplace by employers. At year's end, legislation had not been passed.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. A wide range of views and topics appeared in the press, including articles critical of the PRC and Hong Kong SAR governments. In their annual report, released in June, the Hong Kong Journalists Association asserted that some journalists and news media practiced a degree of self-censorship, mainly in PRC-related reporting. Overall, the media has been outspoken in defending civil liberties. The Telecommunications Ordinance potentially allows limits on some speech and press freedoms by granting the Government wide-ranging powers to ban messages whenever it “considers that the public interest so requires.” In practice, the Government has never invoked this law to limit freedom of speech.

The Basic Law's Article 23 requires the Government to enact legislation prohibiting treason, secession, sedition, subversion against the Central People's Government, and theft of state secrets, and to criminalize links with foreign political organizations that are harmful to national security. In 2002, the Government released a consultation document proposing guiding principles for the legislation. After the controversial legislation was introduced into the Legislative Council in February, the Government proposed a series of amendments to address public concerns from interested parties such as media and legal groups that the bill could restrict fundamental rights and freedoms. Of particular concern were the proposed extension of treason, sedition, secession, and subversion criminal offenses to permanent residents, without regard to nationality or legal domicile; the proposal to ban organizations affiliated with mainland political organizations that have been banned by the PRC on national security grounds; the proposal for extended emergency powers for the police; new uncertainty about the parameters of “unlawful disclosure” of state secrets; and other proposals perceived as potentially limiting freedom of speech and press. Opponents of the proposed legislation conducted a series of protests, including a July 1 demonstration in which approximately 500,000 persons participated to protest the Government's handling of the proposed legislation.

In response to the protests, the Government indefinitely postponed a second reading of the bill in July. In September, the Government withdrew the bill from the legislative process. At year's end, no timetable had been announced for reintroducing a draft bill to the Legislative Council.

In March, a political activist who burned the national flag during a 2002 demonstration was given a suspended sentence of 3 months in jail, in the SAR's first prosecution of a citizen for flag burning. Other persons have been convicted since the handover for altering or defacing flags, but no jail terms or suspended sentences were imposed in those cases.

Individuals may criticize the Government publicly or privately without reprisal, and many persons spoke freely to the media and used the media to voice their views. Political debate was vigorous, and numerous viewpoints, including stories

and opinions critical of the SAR and PRC Governments and statements by leading Chinese dissidents and pro-independence Taiwan activists, were carried by the mass media, in public forums, and by political groups. The Secretary for Constitutional Affairs, however, did comment on a visit by two legislators to Taiwan to participate in a pro-Taiwan independence seminar, suggesting that legislators' overseas remarks should reflect the SAR's mainstream opinion.

During the year, newspapers published a wide variety of opinions, including opinions on Taiwan, Tibet, PRC leadership dynamics, Communist Party corruption, and human rights. There were some 15 daily newspapers, all privately owned in name although 4 were supported financially—and guided editorially—by the PRC (Wen Wei Po, Ta Kung Pao, the Hong Kong Commercial Daily, and the China Daily). The non-PRC-owned newspapers, hundreds of periodicals, four commercial television stations (broadcast and cable) and two commercial radio stations functioned with virtually no government control. One commercial radio station renewed its license without incident shortly after receiving an official warning from the Broadcast Authority regarding the content of one of its programs, which listeners perceived to have gone too far in insulting government officials on their handling of the SARS crisis. The station did not appeal the warning. International media organizations operated freely. Foreign reporters needed no special visas or government-issued press cards for Hong Kong.

China still requires some journalists to apply for journalist visas to make reporting trips to the mainland, but in 2002 the PRC Government somewhat eased those requirements, announcing that it would simplify visa application procedures and drop the requirement of a host organization for foreign journalists from Hong Kong, provided that their organizations have offices in Beijing, Shanghai, or Guangdong Province. All local journalists from Hong Kong can cover mainland stories, but must register with the Hong Kong Macau Affairs Office. Several Hong Kong publications were banned on the mainland, and the Next Group, a pro-democracy, tabloid-style, mass-market media group, was blocked from registering its reporters for mainland reporting. In August, a Radio Free Asia reporter was refused a journalism visa to cover multi-lateral talks in Beijing.

Despite regular coverage of sensitive subjects in print and in the broadcast media, professional journalist groups and NGOs asserted, often in the media, that media self-censorship continued. The Hong Kong Journalists Association (HKJA), for example, commented in a May report that self-censorship was a problem at Metro Finance radio, where an assignment editor was fired in 2002 after being ordered to tone down reports on the Chief Executive, the Falun Gong, pro-democracy activists, and the businesses of the station's owner, tycoon Li Ka-shing. The station's management said the dismissal was prompted by financial reasons rather than editorial policy. The HKJA reported that it was unable to determine whether self-censorship was a factor in the dismissal, though it could not be ruled out.

The government-owned Radio Television Hong Kong (RTHK) continued to enjoy the editorial independence granted to it in its framework agreement between the Government and the station's Director of Broadcasting. Local pro-PRC figures have called for the station to be more supportive of the PRC and Hong Kong Governments and for RTHK to conform to PRC political usage, for example by not referring to Taiwan leader Chen Shui-bian as "president" on the grounds that Taiwan is not a country.

There were no restrictions on the use of the Internet.

The Falun Gong was able to print flyers and other small materials in Hong Kong, but most of its publishing took place outside the SAR. One bookstore, owned by a practitioner, carried Falun Gong books.

The Basic Law provides for academic freedom, and the Government generally respected that freedom in practice. There was independent research, a wide range of opinions, and lively debate on campuses.

b. Freedom of Peaceful Assembly and Association.—The Basic Law provides for freedom of assembly and the Government generally respected this right in practice. The Government routinely issued the required permits for public meetings and demonstrations.

Under the law, demonstration organizers must notify the police of their intention to demonstrate 1 week in advance (shorter notice is accepted when the Commissioner of Police is satisfied that earlier notice could not have been given) for a march involving more than 30 persons and for an assembly of more than 50 persons. The police must explicitly object within 48 hours; no reply indicates no objection. The post-handover provision in the Public Order Ordinance that empowered police to object to demonstrations on national security grounds never has been invoked. Appeals of a denial to demonstrate may be made to a statutory appeals board comprising

members from different sectors of society. Both the board's proceedings and the police's exercise of power are subject to judicial review.

Since the handover, there have been over 13,600 public meetings and public processions. Approximately half of these demonstrations required notification. Since the handover, the police have objected to 21 demonstrations, 9 of which went ahead after the demonstration organizers altered their plans. In the first 6 months of the year, police objected to 1 demonstration, which was subsequently held after organizers changed their routes. Demonstrators have complained that demonstrations often were limited to "designated areas" where they received little public attention and that police sometimes outnumber demonstrators.

On July 1, approximately 500,000 people marched through central Hong Kong to protest the Government's proposed Article 23 national security legislation. On July 9, 50,000 people took part in a rally outside the Legislative Assembly to protest the national security legislation and demand universal suffrage, and on July 13, 20,000 people rallied to demand universal suffrage and greater democracy. These events were legally sanctioned and peaceful.

In addition to holding assemblies and marches on Hong Kong-related issues, groups continued to be free to demonstrate on issues of sensitivity in mainland China. On June 4, approximately 50,000 people attended the annual candlelight vigil to commemorate the anniversary of the 1989 massacre in Beijing's Tiananmen Square.

Falun Gong practitioners regularly conducted public protests against the crack-down on fellow practitioners in the PRC, holding daily protests in front of the Hong Kong offices of the Central Government. In September, an appeal hearing concluded for a group of Falun Gong practitioners who had been fined for obstruction in 2002 for refusing to remain in a designated demonstration area. At year's end, the group was awaiting the judges ruling. In February, Falun Gong practitioners were able to hold an annual international conference in the SAR.

The Basic Law provides for freedom of association, and the Government generally respected this right in practice. Since the handover, no applications for registration have been denied. From January through August, the Societies Licensing Office of the police registered 1,119 new organizations for a total of 8,402 registered since the 1997 handover.

Pro-Taiwan groups have expressed concern that the Societies Ordinance could be used to restrict political activity. The Societies Ordinance requires that new societies must apply for registration within 1 month of establishment. The Government may refuse registration if it believes that the refusal is necessary in the interests of national security, public safety, public order, or the protection of the rights and freedom of others. The Government also may refuse to register a political body that receives support from a foreign political organization or a Taiwan-based political organization.

c. Freedom of Religion.—The Basic Law provides for freedom of religion, the Bill of Rights Ordinance prohibits religious discrimination, and the Government generally respected these provisions in practice.

The Government does not recognize a state religion but does grant public holidays to mark numerous special days on the traditional Chinese and Christian calendars, as well as the Buddha's birthday.

Religious groups are not required to register with the Government and are exempted specifically from the Societies Ordinance, which requires the registration of nongovernmental organizations. Some groups, such as the Falun Gong and various traditional Chinese meditation and exercise groups (known collectively as "qigong" groups), that do not consider themselves religions, have registered under the Societies Ordinance. Catholics freely and openly recognize the Pope as the head of the Catholic Church. The Vatican maintains a Diocese overseen by a local Bishop.

According to the Basic Law, the PRC Government has no authority over religious practices in the SAR. PRC representatives in the SAR and the two PRC-owned newspapers have criticized some religious and other spiritual groups and individuals. Local religious leaders also have noted that the Basic Law provision that calls for ties between local religious organizations and their mainland counterparts to be based on "nonsubordination, noninterference, and mutual respect" could be used to limit such ties. Similarly, the Catholic Bishop of Hong Kong continued to express concern that religious groups could be negatively affected by Article 23 laws.

During the year, Falun Gong, a spiritual movement that has explicitly stated that it is "not a religion," practiced freely and held regular public demonstrations against PRC policies. However, 80 overseas Falun Gong practitioners, mostly from Taiwan, were refused entry into Hong Kong to attend a conference in February (see Section 2.d.). Four of those practitioners filed a judicial review against the Immigration Department's decision to refuse entry. In May, the judge accepted their application to

proceed with the case. At year's end, the group awaited further instruction from the court. In June 2002, over 90 foreign practitioners were also denied entry upon arrival at the Hong Kong international airport (see Section 2.d.). The number of practitioners in Hong Kong has reportedly dropped from approximately 1,000 to approximately 500 since the PRC government began its mainland crackdown in mid-1999.

Other qigong groups, including Xiang Gong and Yan Xin Qigong, also were registered as societies and practiced freely.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Basic Law provides residents freedom of movement within Hong Kong, freedom of emigration, and freedom to enter and leave the territory, and the Government generally respected these rights in practice, with some prominent exceptions. Most residents obtained travel documents freely and easily from the SAR Government. There were limits on travel to the mainland imposed by the PRC Government.

As was the case before the handover, the Taiwan passport is not recognized as valid for visa endorsement purposes.

Since the handover, several prominent overseas dissidents have been denied entry or visas to enter Hong Kong. In February, a group of 80 foreign Falun Gong practitioners were refused entry. In April 2002, exiled mainland dissident Harry Wu, who held foreign citizenship, was refused entry to Hong Kong, on the grounds of protecting Hong Kong's security. The Government asserted that the denial of Wu's entry was in accordance with the law. In June 2002, Wu was again denied a visa to come to Hong Kong, where he had been invited to address a seminar. Also in June 2002, over 90 foreign Falun Gong adherents who intended to stage protests during the fifth anniversary of the handover celebration were denied entry upon arrival at the Hong Kong international airport.

In August 2002, the Court of Final Appeals upheld the right of nonpermanent residents to return after leaving, a right that in practice had been treated as requiring case-by-case consideration.

Chinese authorities did not permit a number of Hong Kong human rights activists and prodemocracy legislators to visit the mainland.

The 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol does not extend to Hong Kong, and the SAR eliminated its temporary protection policy (extended only to Vietnamese) in 1998. On a case-by-case basis, the Director of Immigration has discretion to grant refugee status or asylum in cases of exceptional humanitarian or compassionate need, but the Immigration Ordinance does not provide foreigners any right to have their asylum claim recognized. The general practice is to refer refugee and asylum claimants to a lawyer or to the office of the U.N. High Commissioner for Refugees (UNHCR). Those granted refugee status, as well as those awaiting UNHCR assessment of their status, receive a subsistence allowance from the UNHCR, but are not allowed to seek employment or enroll their children in local schools. The UNHCR works with potential host country representatives in Hong Kong to resettle those few persons designated as refugees. Government policy is to repatriate all illegal immigrants, including those that arrive from the mainland, as promptly as possible. During the year, a total of 4,052 illegal PRC immigrants were repatriated to the mainland.

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

Residents' right to change their government is limited by the Basic Law, which provides for the selection of the Chief Executive by an 800-person selection committee (composed of individuals who are either directly elected, indirectly elected, or appointed), the direct election of only 26 of 60 of Legislative Council members (to become 30 of 60 in legislative elections in 2004), and the inclusion of appointed members to the elected district councils. The approval of the Chief Executive, two-thirds of the legislature, and two-thirds of Hong Kong's National People's Congress delegates is required to place an amendment to the Basic Law originating in Hong Kong on the agenda of China's National People's Congress. The National People's Congress has the sole power to amend the Basic Law. Procedures for amendment or interpretations that originate in the mainland are unclear.

The Government is executive-led, with a two-tiered legislative system consisting of the Legislative Council and 18 district councils, and is staffed by a professional and independent civil service. The Basic Law provides for elections for Chief Executive in 2002 and 2007 by a selection committee of 800 local residents. The selection committee was made up of the 60 members of the Legislative Council, the 36 Hong Kong delegates to the National People's Congress, 41 representatives of Hong Kong

members of the Chinese People's Political Consultative Conference, 40 representatives from religious groups, and 623 persons elected by the same approximately 180,000 voters (some representing organizations, others voting as individuals) who choose the functional constituency representatives of the Legislative Council. In 2002, C.H. Tung, unopposed, won his second 5-year term.

During the year, many citizens pressed the Government to enact procedural reforms needed to implement universal suffrage in the election of the Chief Executive in 2007 and Legco members in 2008. In response, the Government announced that it would provide a timetable for public consultations by the end of the year. The Government's plan was to commence consultations early in 2004 and 2005 and enact necessary legislation in 2006. However, following consultations with the PRC Government, a timetable for public consultations was not announced at year's end. The SAR Government did begin undertaking limited public consultations in late December through meetings with interested groups, public statements, and the creation of a web site for public input.

The Basic Law permits amendment of the Chief Executive selection process by a two-thirds majority of the Legislative Council, with the consent of the Chief Executive and the National People's Congress Standing Committee. Article 45 of the Basic Law states that "the ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures." Similarly, Article 68 of the Basic Law states that the "ultimate aim is the election of all the members of the Legislative Council by universal suffrage."

The members of the Legislative Council were elected in 2000 to 4-year terms; 24 members were elected directly from geographic districts through universal suffrage, 30 from functional (occupational) constituencies, and 6 by votes of the 800-person selection committee. Candidates who consider themselves pro-democracy advocates won 17 of the 24 seats elected on a geographic basis (including 1 in a December 2000 by-election) and 22 seats overall. In both the 1998 and 2000 Legislative Council elections, the functional constituencies were drawn more narrowly than the nine broad functional constituencies of the 1995 Legislative Council, reducing the total number of potential voters in functional constituencies from 1.15 million in 1995 to 180,000 in 1998.

The ability of the legislature to influence policy is limited substantially by Basic Law provisions that require separate majorities among members elected from geographical and functional constituencies in order to pass a bill introduced by an individual member. Another Basic Law provision prohibits the Legislative Council from putting forward bills that affect public expenditure, political structure, or government operations. The Chief Executive's written consent is required before bills affecting government policy may be introduced. The Government has adopted a very broad definition of "government policy" in order to block private member bills, and the President of the Legislative Council has upheld the Government's position. However, the Legislative Council's degree of popular representation and outspokenness gives it significant influence over the Government's policy positions.

The Executive Council (Exco) functions as the Chief Executive's cabinet. Exco includes 11 political appointees who run the 11 policy bureaus, and the Chief Secretary, Financial Secretary, and Justice Secretary, who are also political appointees. These 14 members are chosen by the Chief Executive and approved by the PRC Government. Exco also includes members of two political parties, a labor leader, and two other private citizens, also appointed by the Chief Executive. In July, the Liberal Party member of Exco resigned due to differences over Article 23 legislation. A different Liberal Party representative joined Exco in September.

In November, Hong Kong held its second post-handover District Council election, with a record turnout of over one million voters. Pro-democracy candidates made major gains, while the pro-Beijing Democratic Alliance for the Betterment of Hong Kong (DAB), Hong Kong's largest political party, suffered significant losses, leading to the DAB chairman's resignation. Following the election, there were increased calls for the Chief Executive not to exercise his authority to appoint additional District Councilors (up to 102 of 529), as has been done in the past. Nevertheless, the Chief Executive exercised his authority by appointing 102 District Councilors, the maximum number allowed under the District Councils Ordinance. According to the Ordinance, the District Councils are responsible for advising the Government on matters affecting: (1) the well-being of district residents; (2) the provision and use of public facilities; and (3) the use of public funds allocated for local public works and community activities.

In February, a village elections law was passed that requires the election of two village heads. Under this law, one village head represents indigenous residents (residents who are members of long-term local families) and deals with traditional

affairs such as burial grounds, while the other leader handles general affairs. In July and August, after Government efforts to calm indigenous residents' resentments of this law's inclusion of non-indigenous candidates, 72 percent of registered rural voters turned out for a series of peaceful village elections.

Hong Kong sends 36 delegates to China's National People's Congress (NPC). In 2002, Hong Kong's NPC delegates were elected to a 5-year term by an NPC-appointed committee of 955 residents. Politicians and human rights activists have criticized the election process as undemocratic and lacking transparency.

The percentage of women in government and politics did not correspond to their percentage of the population, although larger numbers were seeking public office than ever before. Women held 11 of the 60 Legislative Council seats, and made up between 17 and 23 percent of membership in the major political parties. The President of the Legislative Council is a woman, as are the heads of several government departments. More than one-third of civil servants are women, and 2 of the 15 most senior Government positions were held by women. The Equal Opportunities Commission noted that women were a minority in government advisory bodies.

Minorities were also represented in senior civil service positions.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. These organizations had unrestricted contacts with the local community and with groups overseas. Government officials were generally receptive to, and respectful of, their views. Prominent human rights activists critical of mainland China also operated freely and maintained permanent resident status in Hong Kong, but overseas dissidents sometimes had difficulty gaining entry to the SAR. In addition, the U.S. Commission on International Religious Freedom postponed a planned visit to Hong Kong and China in August after the PRC Government told the Commission that the timing of the trip was too sensitive for the delegation to travel to Hong Kong. In December, the Commission postponed another trip to Hong Kong and China after the PRC Government insisted that the Commission not hold official meetings in Hong Kong.

Under the Basic Law, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights apply to Hong Kong. The PRC Government transmits Hong Kong's reports, mandated under these covenants, without editing, to the U.N. The SAR Government and several domestic NGOs have testified before several U.N. human rights committees, including the United Nations Human Rights Commission in Geneva. The hearings, including concerns of the Commission, have received widespread and balanced press coverage.

The Office of the Ombudsman has wide powers to investigate and report on grievances from members of the public as a result of administrative actions of the executive branch and other designated public bodies. The Ombudsman may publish investigation reports in which the identity of the complainant has been protected. In addition to responding to public complaints, the Ombudsman may initiate investigations. The Ombudsman may report to the Chief Executive if recommendations to the organizations under his jurisdiction have not been acted upon or if there are serious violations. The Chief Executive is bound by law to present such reports to the legislature. The Ombudsman (Amendment) Ordinance, passed in 2001, helped strengthen the independence of the Ombudsman by de-linking the office from government systems and processes. It empowered the office to set terms and conditions of appointment for staff and to have full powers to conduct its own financial and administrative matters.

The Ombudsman does not have oversight authority over the police, the Independent Commission Against Corruption, or the Office of the Privacy Commissioner for Personal Data, although it may investigate complaints of noncompliance with the code on access to information by government departments, including the police and the Independent Commission Against Corruption. With regard to election-related complaints, the Ombudsman only is empowered to investigate complaints made against the Registration and Electoral Office, not those made against the Electoral Affairs Commission.

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

The Basic Law provides that all Hong Kong residents are equal before the law. The Bill of Rights Ordinance, which provides for the incorporation into law of the International Covenant on Civil and Political Rights as applied to Hong Kong, entitles residents to the civil and political rights recognized therein "without distinction of any kind, such as race, color, sex, language, religion, political or other opinion,

national or social origin, property, birth or other status.” However, the ordinance binds only the Government, public authorities, and persons acting on their behalf; it does not bind private persons or entities. Three pieces of anti-discrimination legislation—the Sex Discrimination Ordinance, the Disability Discrimination Ordinance, and the Family Status Discrimination Ordinance—have made it illegal for any person or entity (public or private) to discriminate on the grounds of sex, marital status, pregnancy, disability, or family status, and prohibits behavior such as sexual harassment, harassment or vilification on the grounds of disability, and discriminatory advertising. Persons with HIV/AIDS are protected from discrimination under the Disability Discrimination Ordinance. Such persons can take legal action on their own or seek assistance from the Equal Opportunity Commission (EOC) through the formal complaint process.

The EOC was established in 1996 to work toward the elimination of discrimination and to promote equality of opportunity with specific reference to gender, disability, and family status. In August, the Government chose a new chairperson for the EOC, leading some observers to assert that the Government was dissatisfied with the former chairperson’s willingness to challenge the Government for its handling of some discrimination issues. In November, the new Chairperson resigned amidst allegations of mishandling a personnel issue. In December, the government announced a new, interim Chairperson, to serve a 1-year, provisional term.

At year’s end, the Government was in the process of drafting legislation prohibiting racial discrimination. Press reports during the year continued to identify examples of strong societal prejudice against minority groups and newly arrived mainland Chinese migrants.

During the year, the EOC received 1,032 total complaints for investigation and conciliation. The Commission concluded 923 cases, which included cases from previous years. Of these, 485 cases were discontinued for various reasons, including withdrawal by the complainant, agreement reached before an investigation was completed, and a lack of substance. Of the remaining concluded cases, 233 cases were successfully conciliated. Legal assistance was available for unsuccessful complainants.

Women.—Violence against women remained a problem, particularly among new immigrants from the mainland. The Domestic Violence Ordinance allows a woman to seek a 3-month injunction, extendable to 6 months, against her husband. Domestic violence also may be prosecuted as common assault. The Government enforced the law and prosecuted violators, but sentences were generally lenient, consisting only of injunctions or restraining orders. During the first half of the year, there were 1,716 cases of domestic violence reported to the Social Welfare Department, which received reports of domestic violence from the police as well as from social workers, the Health Department, and volunteer organizations.

Cultural factors and inadequate information about available assistance and resources resulted in many cases of spousal abuse going unreported. In 2001, the Government established a Women’s Commission to address women’s concerns in a comprehensive and systematic manner. During the year, the Government continued to fund programs such as family life education counseling, a hotline service, temporary housing, legal aid, and child protective services. It also initiated public education and media programs to promote public awareness and encourage early seeking of professional assistance.

There were 70 cases of rape reported to the police during the year and 95 in 2002. Underreporting was a serious problem. The 2002 passage of the Statute Law (Miscellaneous Provisions) Bill made marital rape a crime. In July, the legislature passed an amendment to the Crimes Ordinance expressly clarifying that the term “unlawful sexual intercourse” can be applied both outside and inside the bounds of marriage. Indecent assault cases reported to the police totaled 656 in the first 8 months of the year.

Prostitution is not illegal, but there are laws against activities such as causing or procuring another to be a prostitute, living on the prostitution of others, or keeping a vice establishment. Some women working in the sex industry have been trafficked to Hong Kong (see Section 6.f.).

The Sex Discrimination Ordinance prohibits sexual harassment of women seeking employment or already working in an organization. The Equal Opportunities Commission reported 130 sexual harassment complaints during the year, with 79 such complaints reported in 2002. A joint Government and NGO survey conducted in 2000 suggested that sexual harassment was seriously underreported.

Women faced discrimination in employment, salary, welfare, inheritance, and promotion. In August, a Government survey revealed that men earned an average of 26 percent more than women; the pay gap was only 20 percent in 2001. These fig-

ures excluded the salaries of foreign domestic workers. The press carried occasional stories of women alleging discrimination in the workplace.

Women entered professional fields, including sciences and engineering, law, teaching, accounting, social sciences, health, and medicine, in growing numbers. In 2001, the ratio of male to female professionals employed in these fields was 130,900 to 63,700; the ratio in 2002 was 126,700 to 67,600; the ratio in the third quarter of 2003 was 131,400 to 65,500. Female judicial officers and judges made up approximately 20 percent of the judiciary. In the Legislative Council, women held 11 of the 60 seats. Women held 20 percent of the most senior government positions and 24 percent of the senior policy level positions in the civil service. Women were disproportionately represented in the lower echelons of the work force.

The law treats men and women equally in inheritance matters, although women still faced discrimination based on traditional practices, such as in the inheritance of homes in rural areas of the New Territories.

During the year, the Women's Commission, which was established in 2001, introduced a gender mainstreaming analytical tool to facilitate gender sensitive policy analysis, published a booklet on empowerment practices, cultivated female candidates for government advisory and statutory bodies, launched a capacity building program, ran TV and radio campaigns, and established partnerships with NGOs to advance women's interests.

During the year, the Government worked to finalize Hong Kong's second report under the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) to the U.N.

Children.—The Government is committed firmly to children's rights and welfare through well-funded systems of public education, medical care, and protective services. The Education Department is committed to providing schooling for children between 6 and 15 years of age and provides placement services for non-Chinese speaking children. Education is free and compulsory through grade nine. The Government supported programs for custody, protection, day care, foster care, shelters, small group homes, and assistance to families.

Subsidized, quality medical care is available to all children who are residents.

In July, legislation came into effect that raised the age of criminal responsibility for children from 7 to 10 years. During the year, there were 148 youths under the age of 16 who were incarcerated: 37 in prison, 13 in training centers, 51 in detention centers, 44 in rehabilitation centers, and 3 in drug addiction treatment centers.

Statistics on the problems of child abuse and exploitation were limited. During the year, there were 1,028 child abuse cases reported to the police: 417 involved physical abuse and 611 involved sexual abuse. The Government reported 1,044 cases in 2002.

Effective in December, the Prevention of Child Pornography Ordinance criminalizes the making, production, distribution, publication, advertising, and possession of child pornography. It also prohibits the procurement of children for making pornography, extends the application of certain sexual offense provisions to acts committed against children outside of Hong Kong, and prohibits any arrangement or advertising relating to commission of those acts.

The Government provided parent education programs in all 50 of the Department of Health's Maternal and Child Health Centers and has revamped its child health and development program to include parenting skills believed to be important in preventing child abuse. The Social Welfare Department also commissioned research on domestic violence, including child abuse. The police maintained a child abuse investigation unit to improve the treatment of victims, and a witness support program helped child witnesses in need. A Child Care Center Law helped to prevent unsuitable persons from providing childcare services and facilitated the formation of mutual help childcare groups. There are substantial legal penalties for mistreatment or neglect of minors.

Persons with Disabilities.—Discrimination against the physically and mentally disabled persisted in employment, education, and the provision of some public services. The Disability Discrimination Ordinance called for improved building access and sanctions against those who discriminate, and the amended Buildings Ordinance updated design requirements. However, despite inspections and occasional closure of noncompliant businesses, access to public buildings (including public schools) and transportation remained a serious problem for persons with disabilities. Advocates complained that limited access for persons with disabilities at polling stations made voting difficult.

The Government offered an integrated work program in sheltered workshops and provided vocational assessment and training. No comprehensive statistics were available on the number of persons with disabilities in the work force, but the last

government survey conducted in 2000 estimated that there were approximately 269,500 persons with one or more disabilities, including 225,600 persons with physical disabilities and 52,700 with mental disabilities. However, a consortium of organizations representing persons with disabilities reported in 2002 that approximately 700,000 residents were disabled, and about half were able to work. According to government statistics, of the 269,500 persons with disabilities, 52,500 were employed and 59,700 were considered "economically active," including small business owners and street vendors. As of October, there were 3,398 persons with disabilities employed as civil servants in a total civil service work force of 170,605 (approximately 2 percent of all civil servants). During the first 8 months of the year, the Labor Department's Selective Placement Division found jobs for 1,612 of 3,065 disabled job seekers. Approximately 9,860 students in a school population of 850,000 (1.16 percent) were disabled. Of these, 3,234 were in mainstream schools where they received special education services.

In 2001, the U.N. Committee on Economic, Social and Cultural Rights (UNCESCR) recommended that the Government undertake a comprehensive review of mental health policy and adopt effective measures to ensure that persons with mental illness enjoy the right to adequate and affordable health care. The Committee also noted its concern over the Government's "apparent lack of initiative" to undertake public education to combat discrimination against those with mental disabilities. During the year, the EOC continued to respond by undertaking a variety of activities to address discrimination against persons with disabilities, including sponsoring youth education programs, distributing guidelines and resources for employers, carrying out media campaigns, and co-sponsoring seminars and research.

National/Racial/Ethnic Minorities.—Human rights groups, legislators, the UNCESCR, and the UNCERD continued to call for laws specifically targeting racial discrimination in the private sector. At year's end, the Government was drafting anti-racial discrimination legislation.

The Government's non-legally binding "Code of Practice for Employers," put into place in 2001 and designed to prevent discrimination, states that race, among other factors, should not be considered when hiring employees. Since its establishment in July 2002, the Government's Race Relations Unit has funded numerous projects promoting racial harmony; published guidebooks for migrant workers; provided newspapers and periodicals in minority languages, such as Bahasa Indonesia, Nepalese, Tagalog, and Vietnamese; established a hotline for enquiries and complaints; provided education kits for teachers; and produced posters, pamphlets, and souvenirs promoting racial harmony.

Minorities, who make up approximately 5.1 percent of the population, were well represented in the civil service and many professions. There were allegations of racial discrimination in such areas as private sector employment, admission to public restaurants, placement in public schools, treatment in public hospitals, apartment rentals, and acceptance to institutions of higher education. Foreign domestic workers, most of whom are from the Philippines and Indonesia, were particularly vulnerable to discrimination. An Indonesian Migrant Workers Union was established in 2000 to unite Indonesian domestic helpers throughout Asia to protect members from abuse and exploitation. The organization served the approximately 76,000 Indonesian domestic helpers who work in the SAR. Similar organizations worked for the interests of Philippine domestic helpers, of whom there were approximately 129,000.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of association and the right of workers to establish and join organizations of their own choosing. Trade unions must be registered under the Trade Unions Ordinance. The basic precondition for registration is a minimum membership of seven persons. The Trade Unions Ordinance does not restrict union membership to a single trade, industry, or occupation. The Government did not discourage or impede the formation of unions. Trade unions were independent of political parties and the Government.

During the year, 29 new unions were registered, while 6 were deregistered; there were 689 registered trade unions. At the end of 2002, over 22 percent of the 3,054,400 salaried employees and wage earners belonged to a labor organization.

The Employment Ordinance includes provisions that protect against anti-union discrimination. Violation of the anti-union discrimination provisions is a criminal offense with a maximum fine of \$12,800 (HK\$100,000). Employees who allege such discrimination have the right to have their cases heard by the Labor Relations Tribunal. The Tribunal may order reinstatement of the employee, subject to mutual consent of the employer and employee. The Tribunal may award statutory entitlements (severance pay, etc.) and compensation. The maximum amount of compensa-

tion is \$19,230 (HK\$150,000). Some labor activists have complained in the past that the Labor Tribunals tended to push conciliation rather than issue orders.

The Basic Law commits the SAR to 41 International Labor Organization (ILO) conventions, and the Government has amended labor legislation and taken administrative measures to comply.

The Employment and Labor Relations (Miscellaneous Amendments) Ordinance permits the cross-industry affiliation of labor union federations and confederations and allows free association with overseas trade unions. Notification of the Labor Department within 1 month of affiliation is required.

b. The Right to Organize and Bargain Collectively.—In 1997, the pre-handover Legislative Council passed three laws that greatly expanded the collective bargaining powers of workers, protected them from summary dismissal for union activity, and permitted union activity on company premises and time. The new ordinances would have enabled full implementation of ILO Conventions 87, 98, and 154. However, in 1997, after consultation with the Labor Advisory Board, the Provisional Legislature repealed the Employee's Right to Representation, Consultation, and Collective Bargaining Ordinance and the Employment (Amendment) Ordinance, and amended the Trade Union (Amendment) Ordinance. The repeals removed the new legislation's statutory protection against summary dismissal for union activity; the Government asserted that existing law already offered adequate protection against unfair dismissal arising from anti-union discrimination. In 2001, the U.N. Committee on Economic, Social and Cultural Rights expressed concern over the absence of protection against unfair dismissal.

The 1997 Employment and Labor Relations (Miscellaneous Amendments) Ordinance removed the legal stipulation of trade unions' right to engage employers in collective bargaining. The ordinance bans the use of union funds for political purposes, requires the Chief Executive's approval before unions can contribute funds to any trade union outside of the SAR, and restricts the appointment of persons from outside the enterprise or sector to union executive committees. In a few trades such as tailoring and carpentry, wage rates were determined collectively in accordance with established trade practices and customs rather than a statutory mechanism, but collective bargaining was not practiced widely. Unions were not powerful enough to force management to engage in collective bargaining. The Government did not engage in collective bargaining with civil servants' unions but merely "consulted" with them.

The Workplace Consultation Promotion Unit in the Labor Department facilitated communication, consultation, and voluntary negotiation between employers and employees. Tripartite committees for each of nine sectors of the economy included representatives from trade unions, employers, and the Labor Department.

Work stoppages and strikes are permitted; however, there are some restrictions on this right for civil servants. Although there was no legislative prohibition of strikes, in practice, most workers had to sign employment contracts that typically stated that walking off the job is a breach of contract, which could lead to summary dismissal.

There was 1 strike involving 150 working days lost (300 employees struck for a half day) during the year.

There were no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or bonded labor. The law does not specifically prohibit forced or bonded labor by children. There were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Employment of Children Regulations prohibit employment of children under the age of 15 in any industrial establishment. Children 13 and 14 years of age may be employed in certain non-industrial establishments, subject to conditions aimed at ensuring a minimum of 9 years' education and protecting their safety, health, and welfare. To enforce compliance with the regulations, the Labor Department conducted regular workplace inspections. In the first 8 months of the year, the Labor Department conducted 103,079 inspections and discovered 6 violations of the Employment of Children Regulations, resulting in the assessment of \$2,307 (HK\$18,000) in fines. Work hours for young persons 15 to 17 years of age in the manufacturing sector remain limited to 8 hours per day and 48 hours per week between 7 a.m. and 7 p.m. Overtime is prohibited for all persons under the age of 18 in industrial establishments. Employment in dangerous trades is prohibited for persons under 18 years of age.

e. Acceptable Conditions of Work.—There is no statutory minimum wage except for domestic workers of foreign origin. Aside from a small number of trades where a uniform wage structure existed, wage levels customarily are fixed by individual

agreement between employer and employee and are determined by supply and demand. Some employers provided workers with various kinds of allowances, free medical treatment, and free subsidized transport. The average wage generally provided a decent standard of living for a worker and family. Two-income households were the norm. In 2001, the UNCESCR expressed concern over the lack of adequate regulation on a statutory minimum wage, working hours, paid weekly rest, rest breaks, and compulsory overtime. As of year's end, the Government had not taken any steps to formulate such regulations.

The minimum wage for foreign domestic workers was approximately \$419 per month (HK\$3,270). The standard workweek was 48 hours, but many domestic workers worked far longer hours. The standard contract law requires employers to provide foreign domestic workers with housing, worker's compensation insurance, travel allowances, and food or a food allowance in addition to the minimum wage, which together provide a decent standard of living. Foreign domestic workers are subject to deportation if dismissed. There were credible reports of such workers illegally being forced to accept less than the minimum wage and unacceptable living conditions. During the first 8 months of the year, there were two cases of foreign domestic workers successfully taking their employers to court for mistreatment. In both cases, the employers were convicted and fined.

The Occupational Safety and Health Branch of the Labor Department is responsible for safety and health promotion, enforcement of safety management legislation, as well as policy formulation and implementation.

The Factories and Industrial Undertakings Ordinance, the Occupational Safety and Health Ordinance, the Boilers and Pressure Vessels Ordinance, and their 35 sets of subsidiary regulations regulate safety and health conditions. During the first half of the year, the Labor Department conducted 52,848 inspections of workplaces and issued 1,102 summonses, resulting in a total of \$1,779,076 in fines (HK\$13,876,800). Worker safety and health has improved over the years, but serious problems remain, particularly in the construction industry. During the first 4 months of the year, there were 9,459 occupational injuries, of which 4,124 were classified as industrial accidents. There were six fatal industrial accidents. Employers are required under the Employee's Compensation Ordinance to report any injuries sustained by their employees in work-related accidents. There is no specific legal provision allowing workers to remove themselves from dangerous work situations without jeopardy to continued employment.

f. Trafficking in Persons.—There is no law prohibiting trafficking in persons; however, there are various laws and ordinances that allowed law enforcement authorities to take action against traffickers. Hong Kong was a point of transit and destination for persons trafficked for sexual exploitation and forced labor. It was difficult for authorities to identify trafficking victims among the larger group of illegal immigrants.

Hong Kong was a transit point for some persons trafficked from China and Southeast Asian nations to third countries, despite active efforts by the SAR Government to stop such activities. The most common method used to attempt to smuggle persons through the SAR employed forged or illegally obtained travel documents to move through the airport. During the first 8 months of the year, authorities apprehended 2,101 persons with forged travel documents.

Some women have been lured to Hong Kong with false promises of legitimate employment and forced or coerced to work as prostitutes. A Hong Kong University preliminary study of trafficking of women to Hong Kong for the purposes of prostitution found reports of 39 such cases from 1990 to 2000. Large numbers of illegal immigrant women from the mainland engaged in prostitution with the reported assistance of organized criminal groups.

Prostitution is legal, but there are laws against some related activities that make prostitution illegal in certain circumstances (see Section 5, Women). The authorities sought to combat illegal prostitution by nonresidents through strict immigration controls and by arresting and prosecuting illegal prostitutes and their employers. In the first 8 months of the year, 6,296 nonresident women prostitutes and a much smaller number of their employers were arrested. Most of those arrested were deported rather than formally charged. The Crimes Ordinance stipulates that a person who controls another person for purposes of prostitution can, upon conviction and indictment, be imprisoned for 14 years. A person who knowingly lives wholly or in part on the earnings of prostitution of another can be sentenced to 10 years' imprisonment. During the year, 119 persons were convicted of these offenses, and in 2002, 56 people were convicted. The majority of those convicted were sentenced to immediate imprisonment.

Persons also were trafficked to the SAR for labor purposes, including domestic labor. There continued to be reports of foreign domestic workers, particularly from

Indonesia and India, recruited abroad and brought to Hong Kong only to find that the terms of their employment were not what they had agreed to or were not in compliance with domestic worker labor laws. Some recruitment agencies allegedly have conspired with employers to pay the workers significantly less than the minimum wage, charge excessive fees, require excessively long working hours, and take workers' passports from them upon arrival.

Provisions in the Immigration Ordinance, the Crimes Ordinance, and other relevant laws enabled law enforcement authorities to take action against trafficking in persons. The courts can impose heavy fines and prison sentences for up to 14 years for such activities as arranging passage of unauthorized entrants into Hong Kong, assisting unauthorized entrants to remain, using or possessing a forged, false or unlawfully obtained travel document, and aiding and abetting any person to use such a document. The Security Bureau has policy responsibility for combating migrant trafficking and oversees the police, customs, and immigration departments, which are responsible for enforcing antitrafficking laws. Law enforcement officials received specialized training on handling and protecting victims and vulnerable witnesses, including victims of trafficking.

Legal aid was available to those who chose to pursue legal proceedings against an employer, and immunity from prosecution was often made available to those who assisted in the investigation and prosecution of traffickers. An array of social services provided by the Social Welfare Department and local NGOs were available to victims of trafficking. The Government did not provide funding to foreign or domestic NGOs for services to victims. The Government's prevention efforts included providing pamphlets to workers about their rights; the pamphlets were widely distributed and were published in a wide range of languages.

MACAU

Macau, a 13 square mile enclave on the south China coast, reverted from Portuguese to Chinese administration on December 20, 1999 (the handover). As a Special Administrative Region (SAR) of the People's Republic of China (PRC), Macau enjoys a high degree of autonomy except in defense and foreign affairs, and its citizens have basic freedoms and enjoy legally protected rights. The 1987 Sino-Portuguese Joint Declaration and the Basic Law (the SAR's mini-constitution promulgated by China's National People's Congress (NPC) in March 1993) specify that Macau is to continue to enjoy substantial autonomy, and that its economic system and way of life are to remain unchanged for the first 50 years under PRC sovereignty. The Government is led by a Chief Executive, chosen by a 200-member Selection Committee, which was in turn chosen by a Preparatory Committee composed of 60 Macau and 40 mainland representatives appointed by the NPC. In 2001, voters elected 10 of the legislature's 27 members in direct elections in geographical constituencies. Interest groups in functional constituencies elected 10 others, and the Chief Executive appointed the remaining 7. There are limits on the types of bills that may be initiated by individual members of the legislature. After the handover, most of the laws in force continued to apply. The law provides for an independent judiciary, and the Government respected this provision in practice.

The civilian authorities maintained effective control of the police force. After peaking in 1999, serious organized crime-related violence has since been curbed. A People's Liberation Army (PLA) garrison of 800 soldiers played no role in internal security.

The market-based economy was fueled by textile and garment exports, along with tourism and gambling. The economy grew approximately 13.4 percent during the year. Per capita gross domestic product was approximately \$15,355. The population in 2002 was 441,600.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. These problems included the limited ability of citizens to change their government; limits on the legislature's ability to initiate legislation; inadequate provision for persons with disabilities; and a lack of legal protection for strikes and collective bargaining rights.

RESPECT FOR HUMAN RIGHTS

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

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

There were no reports of suspicious deaths in custody. The Public Prosecutions Office's investigation of a 2002 death in custody was still pending at year's end.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and the Government generally respected these provisions in practice. There were no reports of police brutality during the year. In 2002, two officers allegedly assaulted two Hong Kong journalists who sought to enter Macau to cover the visit of Li Peng, then-Chairman of the NPC. In July, the Public Security Police closed its investigation of the alleged incident, concluding that there was no substantial evidence of any violations.

Prison conditions met international standards. As of September, the prison population was 884 (including male and female inmates), almost two-thirds of whom were from the PRC. At year's end, Macau and the PRC had not reached an agreement on prisoner transfers. Female prisoners were housed separately from male prisoners; juveniles were housed separately from adults; and pretrial detainees were separated from convicted prisoners.

The Government permits prison visits by human rights monitors, but there were no such visits during the year.

d. Arbitrary Arrest, Detention, or Exile.—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. An examining judge, who conducts a pretrial inquiry in criminal cases, has a wide range of powers to collect evidence, order or dismiss indictments, and determine whether to release detained persons. Police must present persons remanded in custody to an examining judge within 48 hours of detention. The accused person's counsel may examine the evidence. The law provides that cases must come to trial within 6 months of an indictment. The estimated average length of pretrial incarceration was 3 to 6 months. Judges often refused bail in cases where sentences exceeded 3 years.

The locally controlled Public Security Police was an effective, well-disciplined force. The Commission Against Corruption acted to preclude problems with corruption.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the Government generally respected this provision in practice. According to the Basic Law, the courts have the power of final adjudication over all cases that are within the autonomy of the SAR. The courts also may rule on matters that are “the responsibility of the Central People's Government or concern the relationship between the central authorities and the (Special Administrative) Region,” but before making their final judgment (i.e., a judgment not subject to appeal), the court must seek an interpretation of the relevant provisions from the Standing Committee of the Chinese NPC. When the Standing Committee makes an interpretation of the provisions concerned, the courts, in applying those provisions “shall follow the interpretation of the Standing Committee.” The Standing Committee must consult the NPC's Committee for the Basic Law of the SAR before giving an interpretation of the law. This Committee is composed of 10 members, 5 from the SAR and 5 from the mainland. The Chief Executive, the President of the Legislative Assembly, and the President of the Court of Final Appeal nominate the SAR members.

Article 9 of the Basic Law provides for the use of Portuguese, in addition to Chinese, as an official language by the executive authorities, legislature, and judiciary. The need to translate laws and judgments from Portuguese, and a severe shortage of local bilingual lawyers and magistrates, has hampered development of the legal system. At year's end, 96 lawyers were registered with the Macau Lawyers Association. Of those who registered their language speaking ability with the Association, 9 spoke Mandarin, and 22 spoke Cantonese. The Association registered 30 trainee-lawyers. The Government instituted a rigorous postgraduate training program for magistrates who received legal training outside of the SAR. The judiciary was relatively inexperienced (the first law school opened in the early 1990s), and the lack of locally trained lawyers has been a serious impediment to the administration of justice.

According to the Basic Law, the Chief Executive appoints judges at all levels, acting on the recommendation of an independent commission, which he appoints, composed of local judges, lawyers, and “eminent persons.” The Basic Law stipulates that judges must be chosen on the basis of their professional qualifications. According to the law, judges may be removed only for criminal acts or an inability to discharge their functions. Except for the Chief Justice, who must be a Chinese citizen with no right of abode elsewhere, judges may be foreigners.

There are four courts: the Primary Court (with general jurisdiction at first instance); the Administrative Court (with jurisdiction of first instance in administrative disputes); the Court of Second Instance; and the Court of Final Appeal.

The law provides for the right to a fair trial, and the judiciary generally enforced this right. By law, trials are open to the public, except when publicity could cause great harm to the dignity of the persons, to public morals, or to the normal develop-

ment of the trial. A decision to close off a trial must be revoked if those factors cease to exist, and the verdict must always be delivered in public. The Criminal Procedure Code provides for an accused person's right to be present during proceedings and to choose an attorney or request that one be provided at government expense. The 1997 Organized Crime Ordinance provides that "certain procedural acts may be held without publicity and that witness statements read in court are admissible as evidence." There also are additional restrictions on the granting of bail and suspended sentences in organized crime cases.

The judiciary provides citizens with a fair and efficient judicial process, but the average waiting period between the filing of a civil case and its scheduled hearing was nearly 12 months. That time was reduced slightly during the year. Since 1991, all legislation has been issued simultaneously in Chinese and Portuguese. Pre-existing laws are required to be translated into Chinese, and those issued between 1976 and 1991 have been translated.

The Public Prosecutions Office (headed by a Public Prosecutor General) enjoys substantial autonomy from both the executive and the judiciary. The Basic Law stipulates that the Public Prosecutions Office's functions must be carried out without interference, and the law was respected.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The law prohibits such actions, and the Government generally respected these prohibitions in practice. A judge's authorization is required for any official interference in these areas. Any evidence obtained by means of wrongful interference in private life, home, correspondence, or telecommunications, without the consent of the concerned person, may not be used in court.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Local law also protects citizens' right to petition the Government and the legislature.

The print media included eight Chinese-language dailies, three Portuguese-language dailies, one Portuguese-language weekly, and six Chinese-language weeklies. There were three television networks. Macau Radio broadcast in both Portuguese and Chinese (Cantonese and Mandarin). Hong Kong and international newspapers were widely available. The dominant newspapers, mainly Chinese-language, were sympathetic to official Chinese positions in their editorial line, while some of the Portuguese-language press published articles critical of mainland policies, such as those regarding Tibet and Falun Gong. The Union for Democracy Development Macau (UDDM), a nongovernmental organization (NGO) headed by pro-democracy legislators, charged that the main papers did not give equal attention to liberal and pro-democracy voices. At least three leading daily newspapers and a leading Hong Kong daily newspaper sold in Macau provided extensive coverage of pro-democracy activities. The reversion to PRC sovereignty has produced no apparent restrictions of press freedom. The press regularly published articles critical of the government, with opinion columns often directly criticizing government officials.

Article 23 of the Basic Law obliges the SAR to enact legislation that would forbid any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets, and links of the foregoing nature that are harmful to national security with foreign political organizations. In 2002, the Government announced that it was working on draft legislation for the Article 23 national security law that would undergo a period of public consultation and then be submitted to the Legislative Assembly. In November, the Chief Executive stated that his administration would not propose Article 23 legislation until the next chief executive term, which begins in 2006. The UDDM voiced concern that when enacted these laws and other provisions passed to implement Article 23 may restrict fundamental rights and freedoms.

Particular concern has been raised regarding the Penal Code's lack of specific sentences for such crimes. A legal vacuum was created when a Portuguese law dealing with crimes against state security became null and void after the handover.

There were no government-imposed limits on Internet access.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly, and the Government generally respected this right in practice. Under local law, individuals and groups intending to hold peaceful meetings or demonstrations in public places are required to notify the president of the relevant municipal council in writing at least 3 days, but no more than 2 weeks, in advance of the event. No prior authorization is necessary for the event to take place. Local law also provides criminal penalties for government officials who unlawfully impede or at-

tempt to impede the right of assembly and for counter-demonstrators who interfere in meetings or demonstrations.

The law provides for freedom of association, and the Government generally respected this right in practice. The law neither provides for, nor prohibits establishment of, political parties. Under the Societies Ordinance, persons can establish “political organizations,” of which a few existed, including the pro-democracy New Democratic Macau Society, headed by a legislator. Both civic associations and candidates’ committees may present candidates in the elections by direct or indirect suffrage (see Section 3). Article 23 of the Basic Law obliges the Macau SAR to enact laws to prohibit foreign political organizations from establishing ties with domestic political organizations or bodies. At year’s end, the Government had not enacted any legislation on Article 23 (see Section 2.a.).

Falun Gong practitioners were allowed to continue their exercises and demonstrations in public parks.

c. Freedom of Religion.—The Basic Law provides for freedom of conscience and religious belief as well as freedom to preach and to conduct and participate in religious activities. The Freedom of Religion Ordinance provides for freedom of religion, privacy of religious belief, freedom of religious assembly, freedom to hold religious processions, and freedom of religious education. The SAR Government generally respected these rights in practice. There is no state religion.

The Religious Freedom Ordinance requires the registration of religious organizations, which is done by the Identification Services Office. There have been no reports of discrimination in the registration process.

Practitioners of Falun Gong (a spiritual movement that does not consider itself a religion) have not applied for registration. The Identification Services Office has not issued any instructions regarding the Falun Gong, and senior SAR Government officials have reaffirmed that practitioners of Falun Gong may continue their legal activities without government interference (see Section 2.b.). According to Falun Gong practitioners, the police occasionally observed their exercises and checked their identification.

Religious bodies can apply to use electronic media to preach and may maintain and develop relations with religious groups abroad.

Missionaries are free to conduct missionary activities and were active in the SAR. In 2002, more than 30,000 children were enrolled in Catholic schools.

The Catholic Church recognizes the Pope as its head. In January, the head of the Macau Diocese received the Government’s second-highest decoration for his contributions to social progress. In June, a new coadjutor Bishop, appointed by the Holy See, took over the Macau Diocese. Editorials in the local Catholic newspaper noted this as an example of the Government’s independence and respect for religious freedom as provided for in the Basic Law.

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

d. Freedom of Movement, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the Government generally respected them in practice. Some 110,000 residents hold Portuguese European Union passports, while an increasing number hold Macau SAR passports that allow visa-free entry to many countries, including EU member states. Most residents also hold special permits that allow travel to and from the mainland. There is a separate pass for travel to and from Hong Kong.

On October 17, the authorities reportedly barred at least two Hong Kong activists from entering the SAR during a visit by PRC Vice-President Zeng Qinghong. A government spokesman refused to confirm the incident but said that the SAR “has the right to deny entry of anyone suspected of having the intention to create trouble here.”

The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government provides protection against refoulement and grants refugee status or asylum. There was one refugee case during the year; the Migration Department cooperated with the U.N. High Commissioner for Refugees in handling it.

In 2002, the SAR enacted the Internal Security Legal Framework, which allows the Government to refuse entry or expel any non-resident considered inadmissible or constituting a threat to internal security, or suspected of having a relationship with transnational crime or terrorism.

Between January and July, 319 illegal migrants were returned to the mainland, of whom 76 were male and 243 female. In that same period, 4,073 overstayers (1,060 males and 3,013 females) were returned to the mainland.

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

The ability of citizens to change their government is restricted. The Government is led by a Chief Executive, chosen by a 200-member Selection Committee, which was in turn chosen by a 100-member Preparatory Committee, composed of 60 Macau and 40 mainland representatives appointed by the NPC of the People's Republic of China. The 27-member Legislative Assembly elected in 2001 is composed of 10 members elected in direct elections; 10 indirectly elected by local community interests such as business, labor, professional, welfare, cultural, educational, and sports associations; and 7 appointed by the Chief Executive. Prior to the 2001 elections, the Legislative Assembly was composed of 8 members elected directly, 12 elected indirectly, and 7 that were appointed. Elections are held every 4 years and the number of legislators is to increase gradually in subsequent elections. In 2005, the number of directly elected seats is to be increased to 12 (with 10 elected indirectly and 7 appointed). After 2009, the rules on the Assembly's composition may be altered by a two-thirds majority of the total membership and with the approval of the Chief Executive, who has veto power. The Basic Law does not provide for universal suffrage or for direct election of either the legislature or the Chief Executive.

There are limits on the types of legislation that legislators may introduce. Article 75 of the Basic Law stipulates that legislators may not initiate legislation related to public expenditure, the SAR's political structure, or the operation of the Government. Bills relating to government policies must receive the written approval of the Chief Executive before they are submitted.

A 10-member Executive Council functions as an unofficial cabinet, approving all draft legislation before it is presented in the Legislative Assembly.

In 2002, a law transformed two provisional municipal councils into a new public body. Under the previous arrangement, a total of eight directly elected members sat on the two councils. The councils were responsible for culture, recreation, and public sanitation functions. Under the new system, the councils have been merged into a single public body, called the Institute for Civic and Municipal Affairs, with all of its members appointed by the Chief Executive. The Basic Law states, "municipal organizations are not organs of political power."

Five of the 27 Legislative Assembly members (3 directly elected, 1 indirectly elected, and 1 appointed), including the President of the Assembly, were women. Women held a number of senior positions throughout the Government. The Secretary for Justice and Administration on the Executive Council was a woman.

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

Domestic human rights groups functioned without government restriction, investigating and publishing their findings on human rights. Local human rights groups, such as the Macau Association for the Rights of Laborers, and the New Democratic Macau Association, continued to operate.

International human rights agreements that formerly were applicable to Macau were approved by the Sino-Portuguese Joint Liaison Group and continued to apply to the SAR. In addition, the International Covenant on Civil and Political Rights is subsumed in the Basic Law.

During the first 8 months of the year, the Commission Against Corruption received 732 complaints against public officials in a variety of agencies. The Commission opened 58 files, of which 53 were criminal cases and 5 were administrative grievances. The Commission transferred seven cases to the Public Prosecutions Office. A monitoring body established to review complaints of maladministration or abuse by the Commission received two complaints during the year.

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

The Basic Law stipulates that residents shall be free from discrimination, irrespective of their nationality, descent, race, sex, language, religion, political persuasion, ideological belief, educational level, economic status, or social condition. In addition, many local laws carry specific prohibitions against discrimination. For example, under the law that establishes the general framework for the educational system, access to education is stipulated for all residents regardless of race, religious belief, or political or ideological convictions.

Women.—The Government enforces criminal statutes prohibiting domestic violence and prosecutes violators. Police and court statistics did not distinguish between spousal abuse and other assault cases. If hospital treatment was required, a medical social worker counseled the victims of abuse and informed them about social welfare services. Until their complaints were resolved, victims of domestic vio-

lence may be provided public housing, but no facilities were reserved expressly for them.

Private and religious groups sponsored programs for victims of domestic violence. The Government supported and helped to fund these organizations and programs. The Bureau for Family Action was created by the Government as a subordinate body of the Department of Family and Community of the Social Welfare Institute. The Bureau helped women who have been victims of domestic violence, providing not only a safe place for them and their children, but also advice regarding legal actions against the perpetrators. In 2002, a special family counseling service performed an average of 150 family services per month, including receiving phone calls and conducting interviews. Two government-supported religious programs also offered rehabilitation programs for women who have been victims of violence. During the year, 11 cases of spousal abuse were reported to the Social Welfare Institute. Between January and July, the Office for Security Coordination received 128 reports of offenses against the physical integrity of female spouses. From January to July, the Government received 10 cases of sexual crimes against minors (under 16 years old) and 1 case of ill treatment. The law on rape covers spousal rape. During the year, there were seven reported rapes.

Prostitution is legal, but procuring is not. Although there was no reliable data regarding the number of persons involved, trafficking in women, for the purposes of prostitution, occurred (see Section 6.f.).

There is no law specifically addressing sexual harassment, although there is a law prohibiting harassment in general.

Women have become more active and visible in business. A Government survey indicated that, as of September, women comprised 46.7 percent of the labor force. Equal opportunity legislation that is applicable to all public and private organizations mandates that women receive equal pay for equal work, prohibits discrimination based on sex or physical ability, and establishes penalties for employers who violate these guidelines. There was wage discrimination in some sectors, notably construction. The equal opportunity legislation may be enforced by civil suits, but no cases alleging discrimination have been brought to court.

Children.—The Government is committed to protecting the rights and welfare of children. It does so by relying on the general framework of civil and political rights legislation to protect all citizens. For example, the Criminal Code provides for criminal punishment for sexual abuse of children and students, statutory rape, and procuring involving minors.

School attendance is compulsory for all children between ages 5 and 15 years. Basic education was provided in government-run schools and subsidized private schools, and covers the pre-primary year, primary education, and general secondary school education. The Education Department provided assistance to the families of those children that could not pay school fees. The children of illegal immigrants were excluded from the educational system. Experts believed only a few children are affected by this exclusion. The Government provided free medical care for all children. Child abuse and exploitation were not widespread problems. During the year, five cases of child abuse were reported to the Social Welfare Institute. Between January and July, 101 cases of offenses against the physical integrity of minors were reported, including 17 cases of family violence, to the Office for Security Coordination. From January to July, 4 cases of rape of minors and 3 cases of sexual abuse of minors were received.

Persons with Disabilities.—There were no confirmed reports that persons with disabilities experienced discrimination in employment, education, or provision of state services. A 2001 census stated that there were 5,713 persons with disabilities in the SAR.

The Social Welfare Institute provided financial and rehabilitation assistance to persons with disabilities and helped to fund 5 residential facilities and 16 day centers providing services for the disabled. A few other special programs existed, aimed at helping persons with physical and mental disabilities gain better access to employment, education, and public facilities. Eleven NGOs providing services for persons with disabilities received regular assistance from the Social Welfare Institute and subsidies from other governmental departments. Fifteen schools had programs for persons with disabilities, providing special education programs for 801 students.

In 2002, a law was enacted mandating improved accessibility for persons with reduced mobility to public administration buildings, buildings open to the public, collective dwellings, and pavements. The Government's Social Security fund may grant subsidies for the elimination of architectural barriers to facilitate access by persons with a physical or behavioral disability.

National/Racial/Ethnic Minorities.—Although no specific laws prohibit discrimination on the basis of racial or ethnic background, the rights of ethnic minorities, particularly the Macanese (Eurasians who comprise roughly 2 percent of the population) were respected. Although Portuguese officials no longer dominated the civil service, the government bureaucracy and the legal system placed a premium on knowledge of the Portuguese language, which was spoken by less than 2 percent of the population. The Chinese language has official status and the use of Chinese in the civil service grew.

Section 6. Worker Rights

a. The Right of Association.—The Government neither impeded the formation of trade unions nor discriminated against union members. The Basic Law stipulates that international labor conventions that applied before the handover shall remain in force and are to be implemented through the laws of the SAR. The UDDM expressed concern that local law does not have explicit provisions against anti-union discrimination.

Nearly all of the private sector unions were part of the pro-China Federation of Trade Unions (FTU), and tended to stress the importance of stability and minimum disruption of the work force. The UDDM and some local journalists have claimed that the FTU was more interested in providing social and recreational services than in addressing trade union issues such as wages, benefits, and working conditions. In 2002, there were six independent private sector unions and two independent public sector unions. All classes of workers have the right to join a union.

Unions may freely form federations and affiliate with international bodies.

b. The Right to Organize and Bargain Collectively.—The Government did not impede or discourage collective bargaining, but there is no specific statutory protection for this right since Portuguese laws that protected collective bargaining no longer apply. Market forces determined wages. Unions tended to resemble local traditional neighborhood associations, promoting social and cultural activities rather than issues relating to the workplace. Local customs normally favored employment without the benefit of written labor contracts, except in the case of migrant labor from China and the Philippines. Pro-China unions traditionally have not attempted to engage in collective bargaining.

There is no specific protection in local law from retribution should workers exercise their right to strike. The Government has argued that striking employees are protected from retaliation by labor law provisions that require an employer to have “justified cause” to dismiss an employee, and the Government enforced these provisions. Strikes, rallies, and demonstrations are not permitted in the vicinity of the Chief Executive’s office, the Legislative Assembly, and other key government buildings. Though there was at least one protest, there were no work stoppages or strikes during the year.

In July, the Labor and Employment Bureau completed mediation in the resolution of a yearlong dispute between a casino company and a group of casino employees disgruntled over the terms of a new employment contract that came into effect when the casino company reorganized in 2002. The casino company agreed to pay the workers for unpaid holidays, leave, and outstanding allowances.

Workers who believe that they have been dismissed unlawfully may bring a case to court or lodge a complaint with the Labor Department or the High Commissioner against Corruption and Administrative Illegality, who also functions as an ombudsman.

There are no export processing zones.

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

d. Status of Child Labor Practices and Minimum Age for Employment.—The law prohibits minors under the age of 16 from working, although minors between the ages of 14 and 16 can be authorized to work on an “exceptional basis.” Some children reportedly worked in family-run businesses and on fishing vessels, usually during summer and winter vacations. Local laws do not establish specific regulations governing the number of hours these children can work, but International Labor Organization conventions are applied. The Labor Department enforced the law through periodic and targeted inspections, and violators were prosecuted. The Labor Department Inspectorate did not conduct inspections specifically aimed at enforcing child labor laws, but it issued summonses when such violations were discovered in the course of other workplace inspections. No instances of child labor were reported during the year.

e. Acceptable Conditions of Work.—Local labor laws establish the general principle of fair wages and mandate compliance with wage agreements, but there is no man-

datory minimum wage. Average wages generally provided a decent standard of living for a worker and family. There were no publicly administered social security programs, but some large companies provide private welfare and security packages.

Labor legislation provides for a 48-hour workweek, an 8-hour workday, paid overtime, annual leave, and medical and maternity care. Although the law provides for a 24-hour rest period for every 7 days of work, worker representatives reported that workers frequently agreed to work overtime to compensate for low wages. The Labor Department provided assistance and legal advice to workers on request.

The Labor Department enforces occupational safety and health regulations, and failure to correct infractions can lead to prosecution. In 2002, the Labor Department inspectorate carried out 3,243 inspections and uncovered 3,356 violations carrying fines worth \$293,460 (2,289,000 Patacas). There were eight work-related death cases in 2002. Although the law includes a requirement that employers provide a safe working environment, no explicit provisions protect employees' right to continued employment if they refuse to work under dangerous conditions.

Migrant workers, primarily from China, made up approximately 11.7 percent of the work force. These workers often worked for less than half of the wages paid to local residents performing the same job, lived in controlled dormitories, worked 10 to 12 hours per day, and owed large sums of money to a labor-importing company for the purchase of their jobs. They have no collective bargaining rights and no legal recourse in the case of unfair dismissal. Labor interests claimed that the high percentage of foreign labor eroded the bargaining power of local residents to improve working conditions and increase wages.

Due to high unemployment, the Government has reduced the amount of foreign non-resident labor to give job priority to local residents. In August, the Government ordered the expulsion of 23 illegal workers at a foreign company's casino construction site.

f. Trafficking in Persons.—Trafficking in persons is a crime established and punished under Article 7 of the Law on Organized Crime. The penalty for the crime of trafficking in persons is 2 to 8 years' imprisonment. This penalty is increased by one-third (within minimum and maximum limits) if the victim is under the age of 18 years. If the victim is under 14 years old, the penalty is 5 to 15 years' imprisonment. In a case where the victim is raped by the trafficker, the two offenses are treated as different crimes.

Prostitution is not a crime, but living off the proceeds of prostitution is a crime. Prostitutes primarily were from Russia, mainland China, and Vietnam. While most were believed to be witting participants in the commercial sex industry, there were 15 cases of women who complained of being brought to Macau under false pretences, and 7 complaints of abuse, in 2002.

There were no government assistance programs in place for victims of trafficking. There were no local NGOs specifically dealing with the problem of trafficking; however, there were charitable organizations that provided assistance and shelter to women and children who were the victims of abuse.

TAIWAN

Taiwan is a multiparty democracy. The 2000 victory of Democratic Progressive Party (DPP) presidential candidate Chen Shui-bian followed more than 50 years of rule by the Kuomintang (KMT) and marked the first transition from one political party to another in Taiwan's history. The president appoints the premier, who heads the Executive Yuan or Cabinet. Constitutional amendments adopted in 1997 provided the Legislative Yuan (LY) with the authority to dismiss the Cabinet with a no-confidence vote. In 2001, the DPP won a plurality of seats in the LY in free and fair elections. In addition to the DPP, the KMT, the People First Party (PFP), and the Taiwan Solidarity Union played significant roles in the LY. The Judicial Yuan (JY) is constitutionally independent of the other branches of the political system, and the Government respected the judiciary's independence in practice.

The National Police Administration (NPA) of the Ministry of Interior (MOI), the NPA's Criminal Investigation Bureau (CIB), and the Ministry of Justice (MOJ) Investigation Bureau are responsible for law enforcement relating to internal security. The police and security agencies were under effective civilian control. The police occasionally committed human rights abuses.

Taiwan has an export-oriented, free-market economy. Liberalization of the economy has to some extent diminished the dominant role that state-owned and party-run enterprises previously played in such major sectors as finance, transportation, utilities, shipbuilding, steel, telecommunications, and petrochemicals. Services and

capital- and technology-intensive industries were the most important sectors. Major exports included computers, electronic equipment, machinery, and textiles. The 23 million citizens generally enjoyed a high standard of living and an equitable income distribution.

The authorities generally respected the human rights of citizens; however, there were problems in some areas. Instances of police abuse of persons in custody, military hazing, judicial corruption, violence and discrimination against women, child prostitution and abuse, and trafficking in women and children occurred.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Code of Criminal Procedure stipulates that no violence, threat, inducement, fraud, or other improper means shall be used against accused persons; however, there were credible reports that police occasionally physically abused persons in their custody.

The law allows suspects to have attorneys present during interrogations, primarily to ensure that abuse does not take place (see Section 1.d.). The MOJ claimed that each interrogation is audiotaped or videotaped and that any allegation of mistreatment is investigated. Nonetheless, lawyers and legal scholars noted that abuses most often occurred in local police stations where interrogations were not recorded and when attorneys often were not present. Beginning in September, in addition to audiotaping or videotaping interrogation sessions, the presence of two police officers was required at every session. If the presence of two officers could not be secured, the interrogation report must note this and the reason why. As of April, there were 585 interrogation rooms fully equipped with audio recorders and video cameras. The NPA instructed that all construction planning for police stations include audio/video interrogation rooms and itemized costs for these facilities in their short-, medium-, and long-term budget proposals. Also in September, the Government implemented a criminal code that provides that criminal charges must be based on legally obtained evidence; confessions, whether by defendants or accomplices, unsupported by other evidence shall not be sufficient to convict defendants; confessions alleged to be illegally obtained must be investigated before proceeding to other evidence.

Law enforcement agencies remained weak in scientific investigative skills; however, the NPA continued to make efforts to improve by upgrading its crime laboratory technology and training crime scene examiners.

The NPA stated that regulations forbid the abuse of suspects and that police who abuse suspects are punished. Detainees who are abused physically have the right to sue the police for torture, and confessions obtained through torture are inadmissible in court proceedings. According to the Government, there were no such cases during the year. In January, the Taiwan High Court acquitted the “Hsichih Trio” who alleged police torture in extracting their confessions to a 1991 murder charge. At year’s end, prosecutors were appealing the court’s decision.

Although the primary responsibility for investigating torture and mistreatment lies with prosecutors, the Control Yuan, a coequal branch of the political system that investigates official misconduct, also investigates such cases. According to the Government, instilling respect for human rights was a part of basic police training, and, during the year, the Central Police University, the Taiwan Police College, and police departments strengthened human rights and legal education in the student curriculums and personnel training. Human rights groups acknowledged the improvements.

Corporal punishment is forbidden under military law, and the Ministry of National Defense implemented several programs in recent years to address the problem. In 2002, a law was passed establishing committees for the protection and promotion of servicemen’s rights and interests. Nonetheless, in November, in the LY opposition legislators raised incidents of military hazing. The Premier said that the Government would look into these cases and promised more actively to ensure the protection of human rights in the military.

Prison conditions generally met international standards. Male prisoners were segregated from women, juveniles from adults, and pretrial detainees from convicted prisoners. However, overcrowding at the 47 prisons and overly long stays at detention centers for illegal aliens remained problems. Recent NPA initiatives reduced the average stay at detention centers for illegal aliens from 78 days in 2001 to 55 days in 2002. According to the MOJ, the number of inmates beyond the capacity

of the prisons increased from 2,321 in July 2002 to 5,018 in July 2003, representing an increase from 4.4 to 9.6 percent overcapacity. Expansion and construction projects to counter overcrowding were underway at year's end.

The authorities permitted prison visits by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The law prohibits arbitrary arrest and detention, and the authorities generally observed this prohibition. Police legally may detain without a warrant anyone they suspect of committing a crime for which the punishment would be imprisonment of 5 years or more, when there is ample reason to believe the person may flee. Police may question persons without a formal summons when circumstances are too urgent to report to a public prosecutor. However, immediately after detaining a suspect, the authorities must apply to a prosecutor for a warrant to detain the arrestee for up to 24 hours and must give written notice to the detainee or a designated relative or friend, stating the reason for the arrest or questioning. If the prosecutor rejects the application for a warrant, the police must release the detainee immediately. Indicted persons may be released on bail at judicial discretion. Since 2000, the NPA has taken steps to prevent the unauthorized release of information about the identity of detainees. In 2002, the JY banned television cameras in courts, and the justice minister required prosecutors to offer masks so that suspects may conceal their identities.

The NPA of the MOI has jurisdiction for all police units. Observers believed that an historical and cultural tradition of corruption hindered police effectiveness. In December, the LY passed the Police Duty Act, which provides police officers with guidelines for evaluating “probable cause.” Human rights advocates complained that the law does not address all of their concerns, and they remained concerned about police effectiveness despite the Government's reforms.

By law, prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee. The duration of this pretrial detention is limited to 2 months, and the courts may approve a single extension of 2 months. Limits also apply to detention during trial. If a crime is punishable by less than 10 years' imprisonment, then no more than 3 extensions of 2 months each may be granted during the trial and appellate proceedings. During the second appeal, only one extension may be granted. The authorities generally observed these procedures, and trials usually took place within 3 months of indictment.

The Code of Criminal Procedure requires the police to inform a suspect during an interrogation of the specific charges in question, the right to remain silent, the right to counsel, and the right to ask the police to investigate evidence that would be favorable to the suspect. If the charges are amended subsequently, the police must inform the suspect. The authorities generally respected a detainee's request to have a lawyer present during the investigation phase. When a detainee requests legal counsel, police must wait at least 4 hours for a lawyer before proceeding with an interrogation. Although the law requires that indigent persons be provided legal counsel during trials, it does not provide for legal counsel during interrogations. However, revisions to the Code of Criminal Procedures, which the NPA began implementing in September, provided additional protection to indigent persons during interrogations. The revised Code requires that confessions from interrogations conducted in the evenings generally not be used as evidence; that allegations that a confession was obtained illegally be investigated before it be used in a trial (see Section 1.c.); that, with the exception of urgent circumstances when such equipment is unavailable, interrogations be audiotaped or videotaped; that when written reports of interrogations are in conflict with evidence in audiotapes and videotapes the contradictory interrogation not be used as evidence. However, some human rights advocates continued to complain that the rules did not provide adequate protection since suspects often did not have legal representation during police interrogation. In addition, informed observers reported that the “public defense counsels” did not appear until the final argument of a trial and that they seldom spent adequate time discussing the case with their clients. In response to this complaint, beginning in February, courts were allowed to appoint private attorneys or public defense counsels to detainees. The courts require, in the first trial, that counsels interview the detainee at least once before each hearing and, in an appeal, whenever the detainee requests an interview.

The Constitution does not provide for forced exile, and it was not practiced.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. However, while the Government has made efforts to eliminate corruption and to diminish political influence in recent years, residual problems remained.

In recent years, the JY has taken several measures to reduce political influence on judges. An independent committee using secret ballots decides judicial appoint-

ments and promotions. Judicial decisions no longer are subject to review by presiding judges, except in the case of decisions by “assistant judges.” The judges themselves decide upon distribution of cases. Finally, judges and the President of the JY are prohibited from taking part in political activities. In January, six nongovernmental organizations (NGOs), including academics, human rights activists, and legal experts, founded a 15-member committee to monitor the grand justices nomination process. In an August 17 report, the committee evaluated 15 grand justice nominees and found 3 unqualified, including the incumbent vice president of the JY. The NGOs argued that his handling of death penalty cases violated human rights by narrowing the time between sentencing and execution. The report also questioned his political neutrality. Despite the report, the LY confirmed the nominations.

The Government’s anti-corruption campaign reinforced the JY’s efforts to eliminate judicial corruption. Although the LY has yet to enact the JY president’s proposed code of judicial conduct, the proposals resulted in revised precepts for evaluation of judicial performance and strengthened reviews of judges’ financial disclosure reports. In addition, a human rights course was part of the JY training program. These factors reduced the incidence of judicial misconduct; however, there continued to be complaints of corruption on the part of individual judges. During the year, the district court’s disciplinary committee and the JY’s Commission on Disciplinary Sanctions of Public Functionaries both took up a case against a judge in Taoyuan for dereliction of duty. Also during the year, a High Court judge was impeached by the Control Yuan for circumventing the restriction on visits by high-level public officials to the People’s Republic of China.

The JY is one of the five coequal branches of the political system. The JY is headed by a president and a vice president and also contains the 15-member Council of Grand Justices, which interprets the Constitution as well as laws and ordinances. Subordinate JY organs include the Supreme Court, high courts, district courts, the Administrative Court, and the Committee on the Discipline of Public Functionaries. The Administrative Court also provides judicial review.

The law provides the right of fair public trial, and this generally was respected in practice. Judges, rather than juries, decide cases; all judges are appointed by, and are responsible to, the JY. In a typical court case, parties and witnesses are interrogated by a single judge but not directly by a defense attorney or prosecutor. The judge may decline to hear witnesses or to consider evidence that a party wishes to submit if the judge considers it irrelevant; a refusal to hear evidence may be a factor in an appeal. Trials are public, but attendance at trials involving juveniles or potentially sensitive issues that might attract crowds may require court permission.

A defendant has the right to an attorney. If the defendant is charged with committing a crime for which the penalty is 3 or more years’ imprisonment or if the defendant is indigent, the judge may assign an attorney. Attorneys assigned to defendants generally assisted once an indictment was filed and at trial but usually were not present during police interrogations. Although the Government took measures to strengthen the effectiveness of defense representation, some human rights lawyers argued that more improvements were necessary (see Section 1.d.). The law states that a suspect may not be compelled to testify and that a confession shall not be the sole evidence used to find a defendant guilty. All convicted persons have the right to appeal to the next higher court level. Persons sentenced to terms of imprisonment of 3 years or more may appeal beyond that level. The Supreme Court automatically reviews life imprisonment and death sentences.

In May 2002, the LY passed criminal procedure legislation making judges impartial adjudicators of lawsuits rather than law enforcers for the Government obligated personally to help gather evidence for prosecutors. The revision, which elevates the status of judges’ over that of prosecutors, requires prosecutors to bear the full responsibility for investigations and charges them with the duty of convincing the judge of the guilt of the accused.

In 2001, the Council of Grand Justices declared certain due process provisions of the 1985 Anti-Hoodlum Law to be unconstitutional. The law had departed from international standards by allowing police to detain suspects for up to 1 month—extendable to subsequent months—while the suspect was under investigation. In April 2002, the LY passed legislation eliminating that provision.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The Constitution and the Criminal and Civil Codes contain provisions protecting privacy. In 2001, the LY amended the Code of Criminal Procedure to require prosecutors to obtain judicial approval of search warrants, except when “incidental to arrest” or when there are concerns that evidence may be destroyed. However, critics claimed that the incidental to arrest provision not only is unconstitutional but also often is interpreted broadly by police to justify searches of locations other than ac-

tual arrest sites. According to the NPA, warrantless searches are allowed only in special circumstances, such as to arrest an escapee or if facts indicate that a person is in the process of committing a crime. In any such case, the police must file a report with the prosecutor or court within 24 hours. A police officer who carries out an illegal search may be sued for illegal entry and sentenced to up to 1 year in prison.

In 2001, the Council of Grand Justices ruled that the Police Administration Law (PAL), which had been used to give police wide discretion in searching persons in public places and stopping vehicles for inspections, did not entitle police to make such searches unless a clear risk to public safety had been established. Noting that such searches could infringe on freedom of movement, privacy, and the right to property, the Council instructed the NPA to revise the PAL in accordance with its ruling immediately. The revision to the PAL was passed by the LY in June, and the Government started implementing it on December 1. The revised law clearly stipulates the limitation of police authority and allows citizens to demand compensation for illegal practices by the police.

Although the MOJ and the police used wiretapping as an investigative tool, unauthorized wiretapping was less of a problem following passage in 1999 of the Telecommunications Protection and Control Law, which imposed severe penalties for unauthorized wiretapping. The Telecommunications Law and Code of Criminal Procedure provide that judicial and security authorities may file a written request to a prosecutor's office to monitor telephone calls to collect evidence against a suspect involved in a major crime. According to the MOJ, in the past 2 years the number of approved wiretaps increased to 13,834 from approximately 10,000 in 2002. Officials attributed the increase to investigations into alleged vote-buying cases during local and national elections. The law also regulates wiretapping by the intelligence services.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the authorities generally respected these rights in practice.

Print media represented the full spectrum of views within society. However, some political influence still existed over the electronic media, particularly broadcast television stations. However, the existence of approximately 100 cable television stations, some of which carry programming openly critical of the various political parties, has diminished the importance of political party influence over the broadcast television stations. Moreover, in December, the LY approved legislation that bars the Government, political parties, and political party officials from owning or running media organizations. The Government and the parties are required to divest themselves of stakes in all television and radio broadcast companies within 2 years. Government and party officials who serve as board members or hold managerial positions in media companies are obligated to sever their media ties within 6 months. The legislation also mandates the formation of a National Communications Commission to replace the Government Information Office (GIO) in overseeing the operations of the broadcast media. By year's end, all government offices and many politicians had complied with the new legislation.

Controls over radio stations were more limited than those over television stations and gradually were being liberalized. Responding to allegations that underground stations were illegally occupying government and private property and selling unregulated medicine, an inter-agency task force was formed this year to crack down on them. In the first 6 months of the year, the Ministry of Transportation and Communications fined and closed down 33 stations.

Among other restrictions regulating the media were those precluding persons previously convicted of sedition from owning, managing, or working in television and radio stations. DPP leaders, many of whom were convicted of sedition in the aftermath of the 1979 Human Rights Day demonstrations that turned into a riot, known as the "Kaohsiung incident," were not affected because their rights were restored through presidential amnesties by the previous administration.

There is a vigorous and active free press. In 1999, the LY abolished the Publications Law, which had empowered the police to seize or ban printed material that was seditious, treasonous, sacrilegious, interfered with the lawful exercise of public functions, or violated public order or morals. However, in March 2002, the Government raided the offices of Next Magazine and confiscated 160,000 copies of an issue containing an article about \$100 million (NT\$3.5 billion) in secret funds established by former President Lee Teng-hui and used as well by the current administration for diplomatic missions and policy initiatives. The Taiwan High Court Prosecutor's Office charged a reporter at the magazine with breaching national security; the case remained pending at year's end. In July, the Taiwan High Court sentenced a former

journalist who reported the details of a military exercise in 2000 to 18 months in prison and 3 years probation. The journalist was appealing the decision. He was the first person to be convicted of revealing classified military secrets. After the abolishment of the Publications Law in 1999, the police may seize violent or pornographic material based on the offences against morals and public order of the Criminal Code and the Child and Adolescent Sexual Prevention Statue. The police must request search warrants from prosecutors to conduct such seizures.

The GIO required that any publications imported from mainland China be sent to the GIO Publications Department for screening before sale or publication and still sought to ban the importation of publications that advocated communism or the establishment of united front organizations, endangered public order or good morals, or violated regulations or laws. Beginning in July, the GIO eliminated the requirement that China-origin material be converted to traditional characters before being published in Taiwan. However, cable television systems are still required to send imported material to the GIO for screening and to convert the subtitles to traditional characters before broadcasting.

The quality of news reporting was erratic, and, at times, the media trampled on individuals' right to privacy. The media often taped and aired police interrogations and entered hospital rooms when the patient was unable to prevent this.

The authorities did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly, and the authorities generally respected this right in practice. Permits required for outdoor public meetings were granted routinely. The National Security Law gives the Government the authority to prevent demonstrations advocating communism or the division of the national territory. However, demonstrations advocating independence have taken place without government interference.

The Constitution provides for freedom of association; and the authorities generally respected this right in practice. The Civic Organization Law requires all civic organizations to register. Registration was granted routinely.

Under the Civic Organization Law, the Constitutional Court holds the power to dissolve political parties. Grounds for dissolution include objectives or actions that are deemed to jeopardize the existence of the "Republic of China." The Constitutional Court heard no cases under this law during the year.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the authorities generally respected this right in practice. Religious organizations may register with the central authorities through their island-wide associations under either the Temple Management Law, the Civic Organizations Law, or the chapter of the Civil Code that governs foundations and associations; however, registration is not mandatory.

Registered organizations operate on a tax-free basis and are required to make annual reports of their financial operations. While individual places of worship may register with local authorities, many chose not to register and operated as the personal property of their leaders. In the past, concern over abuse of tax-free privileges or other financial misdeeds occasionally prompted the authorities to deny registration to new religions whose doctrines were not clear, but there were no reports that the authorities sought to suppress new religions during the year.

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

d. Freedom of Movement, Foreign Travel, Emigration, and Repatriation.—The authorities did not restrict freedom of internal travel. Foreign travel by passport holders was common.

Nonresident passport holders usually were issued "overseas Chinese" passports and must seek entry permits for travel to Taiwan. According to the National Security Law, entry permits may be refused only if there are facts sufficient to create a strong suspicion that a person is engaged in terrorism or violence. Reasons for entry and exit refusals must be given, and appeals may be made to a special board. No exit or entry permit refusals were reported during the year. Holders of nonresident passports who normally reside abroad may return and regain their household registration, a document required to vote or participate as a candidate in an election.

Since 1987, the authorities have relaxed substantially strictures against tourism by residents to the Chinese mainland, and such travel was common. Although the LY enacted legislation to remove restrictions that were previously in existence for national security reasons and to permit Chinese from the mainland to visit for business, academic, or tourism purposes, many mainlanders were refused visas because they could not convince an immigration officer that they would not abandon their residence on the mainland to become economic migrants to Taiwan.

All travelers from the mainland are required to have invitations from sponsors and are subject to approval by the Mainland Affairs Council. In 2001, Taiwan relaxed the regulations to allow PRC correspondents to be temporarily posted to Taiwan for up to 1 month per visit. According to the Mainland Affairs Council, four PRC media agencies took advantage of the opening to cover news in Taiwan. In the first 6 months of the year, 2,569 PRC professionals from academia, the arts, and the media, including 125 journalists, participated in the cross-straits exchanges.

A draft asylum law was under review in the Executive Yuan at year's end. However, the draft law excludes persons from the PRC, Hong Kong, and Macao. These persons would still be subject to the Mainland Relations Act. While the authorities were reluctant to return to the mainland those who might suffer political persecution, they regularly deported to the mainland, under provisions of the Mainland Relations Act, mainlanders who illegally entered the island for economic reasons. In November 2002, a PRC democracy activist, who had entered Taiwan illegally, was granted asylum in a third country. In June, another PRC democracy activist was returned to South Korea where he had started his journey with a fraudulent passport. Prior to the activist's deportation, the U.N. High Commissioner for Refugees had granted him refugee status.

Some detention centers for illegal immigrants continued to be overcrowded, and detainees complained about long stays at the centers while waiting to be repatriated. The NPA continued to improve its facilities and provided human rights training for detention center personnel. The average stay at detention centers for non-PRC illegal aliens was reduced from 78 days in 2001 to 55 days in 2002. The Bureau of Entry and Exit faulted mainland Chinese authorities for delays in repatriation. The authorities allowed some detained illegal aliens from mainland China to return to the mainland by airplane via Hong Kong at their own expense. In addition, the authorities repatriated other mainland Chinese directly from the island of Matsu or allowed them to fly back to China via a third country, rather than taking them to detention centers in Taiwan.

The 1999 Entry, Exit, and Immigration Law provides strict sentencing guidelines for alien smuggling. Several cases were brought before the courts under this law; however, few resulted in convictions.

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

Citizens have the right to change their government peacefully, and citizens exercised this right in practice. In 2000, for the first time an opposition party candidate was elected President, winning a 39 percent plurality in a 3-person race. Generally free and fair popular elections for the LY have taken place four times since 1992.

The Chen administration made significant progress in its efforts to eliminate corruption and vote buying.

In the first 6 months of the year, prosecutors indicted 680 persons in 324 cases of alleged corruption. In addition to 42 elected officials, 369 other government officials were indicted—including 43 at senior level, 107 at middle level, and 219 at low level. In a campaign against organized crime, prosecutors investigated 1,954 cases, indicted 1,690 persons in 654 cases, and convicted 490 persons in 208 cases in the first 6 months of the year. Those indicted in the campaign against organized crime included 2 legislators, 37 city and county council members, and 29 township chiefs and representatives.

The investigations of vote buying and political campaign corruption sparked controversy. During the August Hualien magistrate by-election, the police set up checkpoints to prevent vote buying. The Taiwan Human Rights Association characterized the action as an intrusion into privacy and free movement and a potential violation of human rights. The Chinese Human Rights Association noted that implementation might have been insensitive to the dignity of the local residents.

In the 2001 legislative elections, the DPP won the largest bloc, obtaining 87 of 225 seats. The KMT, which lost the legislative majority for the first time, won 68 seats. The PFP more than doubled its representation in the LY, winning 46 seats. The newly established Taiwan Solidarity Union, inspired by the pro-Taiwanese ideology of former president Lee Teng-hui, won 13 seats. The New Party won one seat.

In November, the LY passed and President Chen signed a Referendum Law. The DPP had long advocated such legislation, but the bill that passed was largely drafted by the KMT and PFP, and gave the power to initiate referendums to the LY and to popular initiatives, except for so-called "defensive initiatives" in instances of imminent danger.

The Constitution provides for equal rights for women, and their role in the political sphere increased. In 2000, a woman for the first time was elected vice president, and 7 of 40 cabinet officials were women, including the chairpersons of the Main-

land Affairs Council and the Labor Affairs Council. Two of 25 Control Yuan members and 3 of 20 Examination Yuan members were women. A number of women also held important political party positions. Two of the 15 members of the DPP Central Standing Committee were women, as were 8 of the KMT's 31 Central Standing Committee members. Forty-eight members in the 225-member LY were women.

Aborigine representatives participated in most levels of the political system. They held eight reserved seats in the LY, half of which were elected by plains Aborigines and half by mountain Aborigines. The proportion of legislative seats allocated to Aborigines was almost twice their approximately 2 percent of the population. An Aborigine served as Chairman of the Council of Aboriginal Affairs.

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

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

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

The Constitution provides for equality of citizens before the law "irrespective of sex, religion, race, class, or party affiliation." It also provides for the rights of persons with disabilities. While the authorities were committed to protecting these rights, discrimination against some groups continued. Societal discrimination against persons with HIV and AIDS was a problem, and some politicians made derogatory remarks about persons with HIV and AIDS. However, the National Health Insurance provides free screening and treatment, including anti-retroviral therapy for all HIV-infected nationals.

Women.—Violence against women, including domestic violence and rape, remained a serious problem. Domestic violence was especially widespread. The authorities funded domestic violence hotlines, which also handled calls for assistance from victims of sexual assault and child abuse. A domestic violence specialist unit was added to police stations to provide expertise on the issue. In 2002, the Taipei City funded Domestic Violence Prevention and Control Center pioneered a help desk at the Shihlin District Court to assist victims in the judicial process. During the year, the help desk assisted an average of 90 cases per month. In March, another help desk was added in Taipei South District Court. The Taipei city government provided the funding, and a women's NGO staffed both help desks. Because many victims could not distinguish between the domestic violence hotline and the regular emergency help line, in May, the Ministry of Interior launched a pilot program in Tainan city and county police stations in which persons could register for protection. Having information about each individual's circumstance and social workers readily available improved police response time. The 1999 Domestic Violence and Protection Control Law allows prosecutors to take the initiative in investigating complaints of domestic violence without waiting for a spouse to file a formal lawsuit. Although some cases were prosecuted, strong social pressure discouraged abused women from reporting incidents to the police to avoid disgracing their families.

Rape also remained a serious problem, and its victims were stigmatized socially. Experts estimated that the number of rapes was 10 times the number reported to the police. The law permits the prosecution of the crime of rape without requiring the victim to press charges. Under the law, rape trials may not be open to the public unless the victim consents. The Code of Criminal Procedure establishes the punishment for rape as not less than 5 years' imprisonment, and those convicted usually were given sentences of 5 to 10 years in prison. According to the NPA, there were 3,003 cases of rape or sexual assault reported in 2002. In 2002, 1,642 persons were indicted for rape or sexual assault, and 1,251 were convicted. From January to July, district prosecutors indicted 1,433 suspects and convicted 1,070 persons. Spousal rape is a crime. By regulation, doctors, social workers, police, and prosecutors jointly question victims of sexual abuse to reduce the number of times a victim is questioned.

The law requires all city and county governments to set up domestic violence prevention and control centers. The centers provided victims with protection, shelter, legal counseling, and other services on a 24-hour basis. Under the law, a judicial order may be obtained to prohibit violators from approaching victims. In 2002, 1,618 persons were indicted for committing domestic violence, and 1,232 were convicted. From January to July, prosecutors indicted 1,138 suspects and convicted 1,163 persons for committing domestic violence. In 2002, the city and county domestic violence prevention and control centers consulted with a total of 71,613 persons, set up follow-up files on the cases of 20,530 persons, helped obtain 3,217 court protec-

tion orders, and assisted in obtaining emergency shelter for 1,163 persons. By the end of 2002, there were: 39 women's welfare service centers (23 public, 3 private, and 13 contracted out to NGOs) that had served 487,000 persons, 27 women shelters with a total capacity of 305 persons that had served 1,092 persons, and 7 single-parent family service centers with a total capacity of 283 persons that had served 359 persons. Also in 2002, 101,623 women received assistance from the Government that totaled \$8.25 million (NT\$280,353,370).

Prostitution, including child prostitution, also was a problem. The authorities were phasing out legalized prostitution. In 1999, the LY banned prostitution but exempted 23 brothels and 119 prostitutes already registered with the authorities. Under the law, no new houses of prostitution may be registered. There were reports of a growing trend of young women, often well-educated, entering into part-time prostitution. There also were credible reports of a small number of women being trafficked onto the island for purposes of prostitution (see Section 6.f.) and reports of a larger number of women who entered for purposes of engaging in prostitution.

Sexual harassment was a problem, which the Government actively addressed.

The law prohibits sex discrimination. Many sections of the legal code that discriminated against women have been eliminated. For example, women are no longer required to adopt their husband's last name after marriage, and the citizenship law was amended in 2000 to permit transmission of citizenship through either parent.

In March 2002, the 2001 Gender Equality in the Workplace Act went into effect, providing for equal treatment with regard to salaries, promotions, and assignments. The law also stipulates that measures be taken to eliminate sexual harassment in the workplace. Women's advocates noted that women continued to be promoted less frequently and worked for lower pay than their male counterparts and that women were not granted maternity leave or were forced to quit jobs due to marriage, age, or pregnancy, despite the fact that previously existing labor laws afforded women some protections against gender-based discrimination in the workplace. According to the Council on Labor Affairs, salaries for women averaged 85 percent of those for men performing comparable jobs. Most city and county administrations set up committees to deal with complaints of sexual discrimination in the workplace.

In 2001, 60 women's organizations joined together to form the National Union of Taiwan Women to promote women's rights.

Children.—The Constitution includes provisions to protect children's rights, and the authorities were committed to supporting them. Education for children between 6 and 15 years of age is free and compulsory, and this rule was enforced. According to government statistics the percentage of school-age children attending primary school was 99.94 percent and those attending junior high school 99.86 percent. Children were provided health care under the national health insurance plan.

Child abuse was a significant problem. In 2002, there were 4,590 cases of child abuse according to MOI statistics. Following the 1999 enactment of the Domestic Violence Control Law, 21 city and county governments established domestic violence protection centers, the goal of which is to protect women, children and senior citizens from violence. Services include a 24-hour hotline, emergency assistance, shelter, medical treatment and examination, counseling for victims, legal assistance, and education and training. Under the law, any persons discovering cases of child abuse or neglect must notify the police, social welfare, or child welfare authorities; child welfare specialists must make such notification to local county or city governments within 24 hours, and the governments must respond with appropriate measures within 24 hours. The local county or city officials must submit a request for an investigation to a supervisory agency within 4 days. Both the MOI's Social Affairs Department and NGO specialists monitored cases to ensure that these requirements were followed. In 2002, the MOI provided guidance to city and county governments for the 3,897 day care facilities in their localities and 26 child protection centers. Financial subsidies were provided to low-income families with children in day care facilities and to local governments to promote child protection efforts. The island's 26 child protection centers have a total capacity of 938 and housed 428 children at the end of 2001. From July to December 2001, the MOI's pilot program on aborigine welfare provided assistance to 335 aboriginal children. A hotline accepted complaints of child abuse and offered counseling. Courts are authorized to appoint guardians for children who have lost their parents or whose parents are deemed unfit.

A juvenile court in Kaohsiung handled criminal cases. The court employed 24 juvenile counselors. There were three juvenile detention centers on the island.

Although no reliable statistics were available, child prostitution was a serious problem, particularly among aboriginal children (see Section 6.f.). Most child prostitutes ranged in age from 12 to 17 years. The juvenile welfare law enables juvenile welfare bodies, prosecutors, and victims to apply to courts for termination of guard-

ianship of parents and the appointment of qualified guardians if parents have forced their children into prostitution. If children are engaged in prostitution of their "own free will" and the parents are incapable of providing safe custody, the courts may order competent authorities to provide counseling for not less than 6 months and not more than 2 years. However, legal loopholes and cultural barriers remained obstacles to enforcement. According to well-informed observers, the practice of aboriginal families selling their children into prostitution no longer existed.

According to some reports, brothel owners used violence, drug addiction, and other forms of coercion to prevent child prostitutes from escaping. The law provides for up to 2 years' incarceration for customers of prostitutes under the age of 18. In 2002, 1,602 persons were indicted, and 1,252 were convicted for violations of the law. In the first 11 months of the year, 1,021 persons were indicted and 1,196 (including persons indicted earlier) were convicted. The law also requires the publication of the names of violators in newspapers. In February, the Taipei city government published the names of 40 persons convicted of patronizing child prostitutes in 2002, compared with 23 names in 2001. In 2002, police rescued 598 child prostitutes, including 568 citizens, 27 PRC nationals, and three other foreign nationals, of whom 54 were male and 544 female. During the same period, local governments provided shelter to 1,077 rescued children—503 in emergency shelters, 431 in temporary shelters, and 143 in half-way schools. The law prohibits the media from running advertisements involving the sex trade and imposes penalties on citizens arrested abroad for having sex with minors; these laws were enforced in practice (see Section 6.f.).

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities and sets minimum fines for various violations. New public buildings, facilities, and transportation equipment must be accessible to persons with disabilities, and, in practice, this requirement was generally met. Violations of the law resulted in fines of \$1,765 to \$8,824 (NT\$60,000 to NT\$300,000). Existing public buildings were to be brought into conformity by 1995; however, as of year's end, there did not appear to be a substantial effort aimed at refitting older buildings to accommodate persons with disabilities.

According to MOI statistics, as of June, there were 847,703 persons with disabilities. One-third of the total were severely disabled and received shelter or nursing care from the authorities. The Disabled Welfare Law requires large public and private organizations to hire persons with disabilities equal to 2 and 1 percent of their work force, respectively. Organizations failing to do so must pay, for each person with disabilities not hired, 50 percent of the basic monthly salary (approximately \$227 (NT\$8,000)) into the Disabled Welfare Fund, which supports institutions involved in welfare for persons with disabilities. Many organizations complained that it was difficult to find qualified workers with disabilities, and they appeared to prefer to pay the fines. Both the central and local governments established committees for the protection of persons with disabilities.

Indigenous People.—The only non-Chinese minority group consists of the aboriginal descendants of Malayo-Polynesians, who were well established on the island when the first Chinese settlers arrived. According to MOI statistics, as of June, there were 438,658 of these Aborigines. More than 70 percent were Christian, while the dominant Han Chinese were largely Buddhist or Taoist. The civil and political rights of Aborigines are protected under law. The National Assembly amended the Constitution in 1992 and again in 1997 to upgrade the status of aboriginal people, protect their right of political participation, and to ensure their cultural, educational, and business development. In addition, the authorities instituted social programs to help Aborigines assimilate into the dominant Chinese society. The Government increased the budget of the cabinet-level Council of Aboriginal Affairs to \$164 million (NT\$5.6 billion) from \$23.5 million (NT\$800 million) in 1997.

During the school year, 264 schools nationwide offered aboriginal language classes in primary schools. The Ministry of Education encouraged university education for Aborigines and worked to preserve aboriginal culture, history, and language through the establishment of aboriginal studies centers. To compete for government contracts the law requires that a firm with at least 100 employees must include among its employees a minimum of 1 percent of Aborigines and 1 percent of persons with disabilities.

To address a longstanding grievance regarding their inability to own their ancestral land, President Chen signed a partnership document with representatives from all aborigine tribes recognizing their land rights and further allowing some form of autonomy. The Council of Aboriginal Affairs, in addition to continuing the investigation and mapping of traditional tribes and their territories, coordinated with other

ministries to draft or amend legislation on issues such as development in the Aborigine reservations, zoning, national parks, and hot spring tourism.

According to Council of Aboriginal Affairs statistics, in the 2001 school year, 99.72 percent of aborigine children completed elementary school.

The sale of Aborigine children into prostitution by their parents reportedly no longer occurred.

Section 6. Worker Rights

a. The Right of Association.—Most workers in Taiwan have been allowed to form unions and to associate for many years; however, civil servants, teachers, and defense industry workers did not enjoy that freedom. Until 1995, teachers, civil servants, and defense industry workers had no legal basis to form any type of worker association. However, in 1995, the JY ruled that the right of association is protected by the Constitution. In June 2002, the LY passed the Civil Servants Association Law, which affords civil servants the right to organize professional associations but does not permit them to organize labor unions or to strike. A teachers' law, which would provide a legal basis for teachers to associate, was under consideration by the LY at year's end. On September 28, more than 100,000 teachers from around the island gathered in downtown Taipei to protest not being allowed to form unions and to strike. At year's end, legislation protecting defense workers' right to association has not been proposed.

A number of laws and regulations limit the right of association. Labor unions may draw up their own rules and constitutions, but they must submit these to the authorities for review. Labor unions may be dissolved if they do not meet certification requirements or if their activities disturb public order. However, there were no instances of the authorities dissolving local labor groups or denying certification to new labor unions during the year.

The Labor Union Law requires that labor union leaders be elected regularly by secret ballot, and, in recent years, workers have sometimes rejected management-endorsed union slates. During the year, there were no reports of political interference in labor union affairs.

Under the Labor Union Law, employers may not refuse employment to, dismiss, or otherwise unfairly treat workers because they are labor union members. However, in practice, employers sometimes dismissed labor union leaders without reasonable cause or laid them off first during employee cutbacks, and observers pointed out that the law has no specific penalties for violations.

Labor unions may form confederations, but, in the past, no administrative district, including a city, county, or province, was permitted to have competing labor confederations. Since 2000, the Government has significantly eased these restrictions, and the Council of Labor Affairs (CLA) recognized six new island-wide labor federations, including the Taiwan Confederation of Trade Unions (previously known as the National Federation of Industrial Unions), the Chinese Labor Unions Federation, and the National Trade Union Confederation. Nonetheless, the percentage of workers who were labor union members did not increase in recent years in the face of a series of factory closure layoffs, the shift from manufacturing to service industries, and the small-scale and poor organization of most unions. As of March, approximately 29 percent of the 10 million-person labor force belonged to 4,111 registered labor unions.

In 1971, the People's Republic of China replaced Taiwan in the International Labor Organization (ILO). However, Taiwan's Chinese Federation of Labor attends the ILO annual meetings as an affiliate of the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively.—Except for the categories of workers noted in Section 6.a., the Labor Union Law and the Settlement of Labor Disputes Law give workers the right to organize and bargain collectively.

The Collective Agreements Law provides for collective bargaining but does not make it mandatory. The 278 collective agreements in force in March involved roughly 25 percent of industrial labor unions and covered a relatively small proportion of the total workforce. Employers set wages generally in accordance with market conditions.

The law governing labor disputes recognizes the right of labor unions to strike but imposes restrictions that in practice make legal strikes difficult and seriously weaken collective bargaining. For example, the authorities require mediation of labor/management disputes when they deem the disputes to be sufficiently serious or to involve "unfair practices." The law forbids both labor and management from disrupting the "working order" when either mediation or arbitration is in progress. The law mandates stiff penalties for violations of no-strike and no-retaliation clauses. Employers in the past sometimes ignored the law and dismissed or locked out work-

ers without any legal action being taken against them, although no such cases were reported during the year. The Council of Labor Affairs reported that since the lifting of martial law in 1987 there were 36 strikes, of which 23 involved workers at bus companies seeking increased pay and reduced hours. On the September 11 Moon Festival Holiday, one of the busiest travel days of the year, the Taiwan Railway Workers Union attempted a de facto strike by calling a general meeting of all its members to protest the Government's goal of privatizing the Taiwan Railway Administration. This job action was generally ineffective as the trains were kept running, but, in the wake of a threatened 2004 Lunar New Year strike, in December, the authorities agreed to postpone privatization of the railways and to absorb all debts of the Taiwan Railway Administration.

Firms in export processing zones were subject to the same laws regarding treatment of labor unions as other firms and followed normal practices including honoring collective bargaining agreements with their unions.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or compulsory labor, including forced and bonded labor by children; however, there were several cases of forced child prostitution prosecuted by the authorities (see Sections 5 and 6.f.).

In 1992, 66 women who had been forced to work as “comfort women” (women who, during World War II, were forced to provide sex to soldiers of the Japanese Imperial Government) registered with the Taipei Women's Rescue Foundation (TWRFF). In 1999, TWRFF helped nine of those still alive to file a lawsuit in the Tokyo District Court seeking compensation of \$81,300 (10 million Japanese Yen) per person and a formal apology from the Japanese Government. In October 2002, the Tokyo District Court ruled against the women. TWRFF has filed an appeal in the Tokyo High Court. At present, only seven of the nine women are still alive.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Labor Standards Law (LSL) stipulates age 15, the age at which compulsory education ends, as the minimum age for employment. County and city labor bureaus enforced minimum age laws effectively. The Child Welfare Law, the Juvenile Welfare Law, and the Child and Juvenile Sexual Transaction Prevention Act protect children from debt bondage, prostitution, pornographic performances, and other illicit activities specified in ILO Convention 182.

e. Acceptable Conditions of Work.—The Labor Standards Law (LSL) addresses rights and obligations of employees and employers, but the law was not well enforced in areas such as overtime work and pay or retirement payments. By the end of 2002, the LSL covered 5.7 million of Taiwan's 6.8 million salaried workers. Those not covered included teachers, doctors, lawyers, civil servants, and domestic workers. The CLA conducted publicity campaigns to increase public awareness of the law and operated telephone hotlines to accept complaints of LSL violations.

The CLA did not increase the minimum monthly wage, which has remained at \$465 (NT\$15,840) since 1998. While sufficient in less expensive areas, this wage did not assure a decent standard of living for a worker and family in urban areas such as Taipei. However, the average manufacturing wage was more than double the legal minimum wage, and the average for service industry employees was even higher. In 2000, the LY passed legislation to reduce working hours from 48 hours per week to 84 hours per 2-week period. In the public sector, there is a 5-day workweek. According to a CLA survey, 53 percent of private enterprises also have reduced the normal workweek to 5 days. To reduce the impact of the reduction in working hours on businesses, in December 2002, the LY amended the LSL to allow business to calculate work hours on an 8-week base, so that firms can arrange work hours in such a way as to reduce the amount of overtime work.

The law provides adequate standards for working conditions and health and safety precautions and gives workers the right to remove themselves from dangerous work situations without jeopardy to continued employment. However, critics alleged that the CLA did not effectively enforce workplace laws and regulations because it employed too few inspectors. During the year, there were 265 inspectors available for the approximately 280,000 enterprises covered by the Occupational Safety and Health Law. However, by combining health inspections with safety inspections, the number of health and safety inspections increased 14 percent from 62,840 in 2001 to 71,848 in 2002. The CLA maintained that it had strengthened its safety checks at workplaces with a greater risk of worker injury and it offered training programs to help workers protect their rights. Since many enterprises were small, family-owned operations employing relatives unlikely to report violations, actual adherence to the hours, wage, and safety sections of various labor laws was difficult to document but was believed to be minimal in these smaller enterprises.

Since 2000, the CLA has adopted a series of measures to restrict the number of foreign workers in major public construction projects, key manufacturing investment projects, and the manufacturing sector, thus reducing the number of foreign workers by 15,000 workers per year. The number of legal foreign workers has decreased from 327,000 in 2000 to approximately 294,000 at the end of June, including approximately 106,000 workers from Thailand, 76,000 from Indonesia, 71,000 from the Philippines, and 41,000 from Vietnam.

The law stipulates that foreign workers who are employed legally receive the same protection as local workers. However, the CLA in 1998, allowed family maids, including foreign family maids, to be exempted from the LSL, denying them the right to safeguards provided to citizens. Moreover, authorities stated that in many cases, illegal foreign workers, many from Thailand and the Philippines, received board and lodging from their employers but no medical coverage, accident insurance, or other benefits enjoyed by citizens. In response to deteriorating economic conditions, the Government adopted a proposal by the Economic Development Advisory Conference allowing room and board expenses for foreign workers, beginning with contracts signed in September 2001, to be treated as in-kind payments and deducted from foreign workers' pay. The CLA set the ceiling of these deductions at \$117 (NT\$4,000) per month.

Illegal foreign workers also were vulnerable to employer exploitation in the form of confiscation of passports (making it difficult to change employers), imposition of involuntary deductions from wages, and extension of working hours without overtime pay. There also were reports that foreign workers often paid high agency fees to obtain jobs. In addition, observers reported that conditions in many small- and medium-sized factories that employed illegal foreign labor were dangerous, due to old and poorly maintained equipment. Observers alleged that legal foreign workers were sometimes similarly exploited. The CLA urged employers not to mistreat foreign workers, and employers were subject to the same penalties for mistreating foreign workers as for mistreating citizen workers. In an effort to reduce broker fees, the CLA revoked permits of agencies charging excessive fees, and local governments inspected agency hiring practices. The CLA also negotiated direct hire agreements with labor-sending countries, and encouraged NGOs to establish nonprofit employment service organizations to assist foreign laborers in locating employment.

In November 2002, the CLA rescinded regulations requiring the deportation of foreign laborers who became pregnant and further amended regulations to allow them to switch to jobs with lighter workloads. The CLA has established 24 offices around the island to provide counseling and other services to foreign workers, and it provided financial assistance to city and county governments to conduct inspections of places where foreign workers were employed. It also attempted to reduce the number of illegal foreign workers.

f. Trafficking in Persons.—The Statute for the Prevention of Child and Juvenile Sexual Trafficking empowers the authorities to prosecute any person who forces a child below the age of 18 to engage in sex or sells or pawns such a child by other means. Provisions in the Criminal Code can also be used to prosecute traffickers in persons above the age of 18. Trafficking in persons was a problem.

The island remained a significant transit point and, to a lesser extent, a destination for trafficked persons. There were reports of organized crime rings trafficking in a small number of women for the purpose of prostitution. The majority of cases involved women from mainland China, Thailand, Cambodia, Vietnam and Indonesia. Criminal gangs in mainland China reportedly used deceptive measures to recruit and procure young women who were then trafficked to Taiwan-based organized crime gangs who arranged sham marriages to enable them to obtain visas to enter Taiwan and exploited them for purposes of prostitution. Many of the victims were aware that they were to work as prostitutes, but were deceived by the traffickers about what their pay and working and living conditions would be upon arrival. Once in Taiwan, they were kept isolated, their passports were held, and they were threatened with violence if they did not cooperate. Small numbers of young Malaysian women, primarily ethnic Chinese, were trafficked to Taiwan for sexual exploitation. Burmese also were trafficked to Taiwan. The authorities, academic experts, and NGO experts claimed that the number of trafficking victims had decreased significantly in recent years. The authorities reportedly indicted 233 and convicted 122 persons in trafficking cases in 2002.

In June, police arrested two men on charges of luring a woman to Japan with an offer of restaurant employment and subsequently forcing her to work as a prostitute.

Taiwan remained a significant transit point for persons from mainland China attempting to travel illegally to the United States and other countries. Some of these illegal migrants became trafficking victims in the destination countries. In 1999, the

LY enacted legislation, which criminalized alien smuggling (see Section 2.d.). From 2000 to 2002, 8,827 PRC citizens entering Taiwan legally were found to be working illegally, of whom 40.6 percent (3,581 persons) were women found working in the commercial sex industry. In addition, police found 14 cases of foreign-born spouses (non-PRC) of Taiwanese men involved in the prostitution business in 2002, a decrease from 17 cases in 2001, 57 in 2000, and 81 in 1999. In response to an August 26 incident in which 6 PRC women drowned off the coast of Miaoli county after their traffickers threw 26 women off 2 speed boats being pursued by the coast guard, a 12-member PRC police delegation attended a September 29 cross-Strait crime prevention seminar at the Taiwan Central Police University. During the year, Taiwan and PRC authorities agreed for the first time to initiate dialogue on combating trafficking.

Police were trained in handling trafficking, prostitution, and cases of domestic violence. The Government worked with NGOs to provide counseling and medical assistance to victims as needed. Foreign victims of trafficking were repatriated as quickly as possible.

EAST TIMOR

East Timor became a fully independent republic in May 2002, following approximately 2½ years under the authority of the U.N. Transitional Administration in East Timor (UNTAET). The country has a parliamentary form of government with its first parliament formed from the 88-member Constituent Assembly chosen in free and fair, U.N.-supervised elections in 2001. The 29-member Cabinet is dominated by the Fretilin Party, which won the majority of Assembly seats. Mari Alkatiri, Fretilin's Secretary General, is Prime Minister and Head of Government, and Xanana Gusmao, elected in free and fair elections in April 2002, is President and Head of State. UNTAET's mandate ended with independence but a successor organization, the U.N. Mission of Support in East Timor (UNMISSET), was established. The Constitution ratified in March 2002 provides that "laws and regulations in force continue to be applicable to all matters except to the extent that they are inconsistent with the Constitution." Under this provision, many Indonesian and UNTAET laws and regulations remain in effect. Regulations providing for an independent judiciary generally were respected; however, at times, the judicial system was inefficient and inconsistent.

UNMISSET maintains responsibility and command of the U.N. Peace Keeping Force (UNPKF) and the U.N. Police Forces (UNPOL). In addition to providing interim law enforcement and public security, UNMISSET is assisting in the development of the national police service, the Policia Nacional de Timor-Leste (PNTL). During the year, UNPOL transferred authority for internal law and order district by district; Dili, the last district, was turned over to the PNTL on December 10. UNPOL is expected to end operations, except for a small advisory unit, in May 2004. A national defense force, Falintil-Forca Defesa Timor-Leste (F-FDTL), is gradually assuming responsibility for external defense from UNPKF, and UNPKF continued to reduce its presence during the year. UNMISSET's mandate is scheduled to be phased out completely by June 30, 2004. The PNTL is responsible to the civilian Minister of Internal Administration, and the F-FDTL is responsible to the civilian Secretary of State for Defense. While civilian authorities generally maintained effective control of the security forces, there were a few instances when members of the security forces acted independently of government authority. Some members of the PNTL and F-FDTL committed human rights abuses.

The country is extremely poor, with two-thirds to three-fourths of the population of 775,000 persons engaged in subsistence agriculture. Per capita gross domestic product was approximately \$478 per year. An estimated 70 to 80 percent of the country's infrastructure was damaged severely by the systematic scorched-earth campaign that Indonesian military and militia forces conducted in 1999 as they withdrew. The majority of the population has basic shelter and sufficient food supplies. Low-level commercial activity has resumed, and primarily serves the large foreign presence. The rural agricultural economy has recovered significantly, but the country remained dependent on imported food. Coffee remained the territory's only significant export, but falling world prices limited export earnings. In May 2002, the country concluded an interim agreement with Australia to share revenue from the potentially lucrative Timor Gap oil and gas region, from which significant production revenues have been predicted to begin in 2006. This agreement replaced the 2001 agreement signed between UNTAET and Australia. Property ownership disputes and the lack of a comprehensive commercial code hindered investment and

related long-term development. Urban unemployment and wage and price inflation remained significant problems. Most observers believed that the country would remain heavily dependent on foreign assistance for the next several years.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were numerous reports of excessive use of force and abuse of authority by police officers. Prolonged pretrial detention was a problem. The rights to due process and to an expeditious fair trial often were denied or restricted, largely due to severe shortages of resources and lack of trained personnel in the legal system; there were also reports of abuse of authority by government officials. It was not clear how many refugees or displaced persons wished to return to the country but felt unable to do so either because of fear of reprisals from militias in West Timor or because of attacks and harassment of returnees suspected of being former militia members. Domestic violence against women was a problem, and there were instances of rape and sexual abuse. The country also lacked the infrastructure to care adequately for persons with mental or physical disabilities. Child labor in the informal sector occurred, and there were reports of trafficking in persons.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings during the year; however, on September 19, an officer from the Border Protection Unit shot and killed a fugitive militia leader, Francisco Vegas Bili Atu, as he crossed into East Timor from West Timor. While security forces claimed that the shooting was in self-defense, there were credible reports that excessive force may have been used. The Serious Crimes Unit of the office of the Prosecutor General (SCU) had indicted Atu in February on seven counts of crimes against humanity, including three counts of murder, for his role in the 1999 conflict. At year's end, the official investigation into the incident and the officer who shot Atu was ongoing.

No official action has been taken against members of the security forces for the killing of two participants in the December 2002 riots, and at year's end it appeared unlikely that the individuals who fired the fatal bullets would be identified. An investigation conducted by UNMISSET concluded that investigators were unable to identify who had killed the two protestors because various weapons, used by both UNPOL officers and PNTL officers, were fired by a number of security personnel.

In early January near Atsabe, a group of 12 to 15 attackers killed 6 persons who had been associated with the independence movement prior to the 1999 referendum. Eyewitnesses identified the group as pro-integration militia members. At year's end, the perpetrators were believed to have escaped to Indonesia, the investigation had stalled, and no charges had been filed.

On February 24, 10 men attacked a bus near Aidabaleten, killing 2 persons and injuring several others, including 2 pregnant women. One attacker was seriously injured in a shootout with UNPKF troops. He later died in police custody. Several others were captured and admitted to being members of pro-integration militias who had entered the country for the purpose of destabilization. Of those captured, six men, including the man who died in custody, were arrested on suspicion of rebellion against the Government. At year's end, two of these men had been indicted for crimes related to the incident and were in pretrial detention. The other three were released conditionally, although the prosecutor's office reserved the right to issue future indictments.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and the Government generally respected the prohibition against torture; however, there were incidents of cruel or degrading treatment by police officers. For example, on June 8, members of the PNTL Rapid Intervention Unit reportedly assaulted and severely beat a man when the Unit was breaking up a clash between martial arts gangs in a Dili market. On July 22, a police officer joined community members in the abuse of a 16-year old deaf and mute boy who had been accused of petty theft. The boy was tied to a tree and beaten and burned with cigarettes. Another off-duty police officer observed the abuse but did not intervene. The Professional Standards Unit of the PNTL (PSU) investigated the officers involved and recommended discipline to the PNTL Commissioner, but at year's end no action had been taken on this case. On September 3, off-duty police officers who were reportedly intoxicated stopped a motorcycle for a routine traffic violation. Upon learning the identity of the rider, a member of the armed forces who had reportedly been involved in a previous altercation with police officers, the officers beat and kicked him, breaking two ribs, before arresting him. The following

morning several soldiers, including some armed with M-16 rifles, went to the police station to secure his release. One of the police officers involved has been dismissed and was in detention awaiting trial at year's end.

The PSU is charged with investigating allegations of police misconduct or abuse of authority. The PSU reports the results to the PNTL Commissioner who may choose to take action or to reject the PSU recommendations. During the year, some officers were punished for misconduct; however, in some cases no action had been taken by year's end. There were allegations that personal connections within the police force were a factor in some of these cases.

There were reports of sexual abuse by police officers during the year. For example, in August, a BPU officer reportedly refused to return the passports of two alleged prostitutes or process their visa applications unless they had sex with him. One of the women reported that the same officer made such demands on a number of different occasions. A common problem was the delay or refusal by police to investigate allegations of rape or domestic violence (see Section 5).

Prison conditions generally met international standards; however, prison facilities were deteriorating, and there were a few reports of undisciplined behavior by prison guards. The deterioration of Gleno prison's infrastructure gave rise to safety and security concerns. Gleno prison also has suffered from severe water shortages during the year. In addition, there were reports of mistreatment of prisoners. On June 18, a prison guard at Baucau prison reportedly beat and injured a new inmate while other officers looked on. The inmate was not given medical treatment until the following morning. A criminal case has been filed against the guard; however, by year's end, it had not been heard due to delays in the court system.

Except in cases where juveniles request to be incarcerated elsewhere, Becora prison, which has a separate cellblock for juveniles, is used to incarcerate juvenile prisoners. There were no separate juvenile facilities at the Gleno or Baucau prisons. When juveniles are detained at Gleno or Baucau, they are generally forwarded to Becora as soon as possible. All female prisoners are held in separate facilities in Gleno and Baucau. There were two full-time social workers to deal with juveniles, women, the elderly, and mentally ill inmates. All prisons operated at or very near capacity throughout the year; however, there were no reports of severe overcrowding at any facility.

The Government permitted prison visits by independent human rights observers.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention; however, there were a few instances in which these provisions were violated. On May 27, police arrested a juvenile and reportedly held him for more than 2 days without allowing him to contact his parents. Although detentions such as these are often due to slow legal proceedings, the circumstances of this case and others suggested that police officers might have held detainees as a form of punishment. After pro-integration militia members attacked a village and commandeered a bus near the border with West Timor (see Section 1.a.), F-FDTL searched area villages for the perpetrators and arrested dozens of suspects. The evidence against many of these suspects was reportedly limited to their association with an organization that was suspected of cooperation with militias. After a few days in detention, the courts released the majority of the suspects, and over the following 2 weeks released the remainder. In another case, a human rights group reported that a man arrested in 2001 for drunk and disorderly conduct was never charged or indicted, but was not released until January.

Following the atrocities in 1999, the U.N. assumed responsibility for policing and public security in the country and, in accordance with its U.N. Security Council mandate, initiated a program to establish, train, and equip a national police force capable of assuming responsibility for the country's law enforcement. Several nations assisted bilaterally in this process. In May 2002, the U.N. began transferring authority for law enforcement on a district-by-district basis to PNTL.

Despite the training and support received from the international community, the PNTL remained both ill equipped and under-trained, and there were numerous credible allegations of abuse of authority (see Section 1.c.), mishandling of firearms, and corruption. During the year, reports of abuse of authority and unprofessional conduct increased as policing authority was shifted from the U.N. to the PNTL. There were credible reports that some PNTL officers had demanded free meals at restaurants, as well as allegations that some officers had demanded money from business establishments. Complaints about unethical conduct by traffic police also were common.

The PNTL were often slow to respond, willing to overlook required procedures, or ill equipped to complete an investigation or arrest. In June, police reportedly failed to arrest a murder suspect in Railako because they had no vehicle at their disposal.

In a few cases, police were influenced by political pressures. On April 19, a Malaysian businessman was arrested after turning away a senior government official who wanted to inspect his property and business licensing documents. The official had no documentation or identification indicating that he had authority to make such a request. A verbal altercation ensued during which the official was locked within the premises. The government official then called a more senior official who came to the scene and ordered the businessman arrested. During the man's detention, police seized his passport and business records. On May 29, when the man's habeas corpus application was heard, the investigating judge found in favor of the Malaysian businessman, noting among other things that the officials in question had no authority to order an arrest. On May 30, the businessman was detained again on different charges and held for approximately 30 days before being conditionally released when a judge ruled on a second habeas corpus application, declaring that another judge's order approving the man's detention was inconsistent with the governing UNTAET regulations. On November 11, the Court of Appeals ruled in favor of the businessman, releasing him unconditionally on the grounds that there was not enough evidence to keep him detained for the alleged crimes. At year's end, the businessman was free but unable to obtain the export permit required to continue his operations.

Government regulations require a hearing within 72 hours of arrest to review the lawfulness of the arrest and detention, and also provide the right to a trial without undue delay. However, because of a shortage of magistrates, many suspects were forced to wait longer than 72 hours for a hearing. This situation was particularly acute in areas that did not have a local magistrate or where authorities lacked a ready means to transport suspects to a hearing. Some prosecutors have, in violation of applicable regulations, granted police the authority to detain persons beyond 72 hours.

On September 12, the Court of Appeals made a controversial ruling affecting pretrial detention. An UNTAET regulation provides that an Investigating Judge must review pretrial detention every 30 days and choose whether to permit further detention of a person, and that the maximum period of pretrial detention is 6 months. Another regulation allows judges to order the detention of defendants charged with certain serious crimes for any period that is "reasonable in the circumstances." The Court held that this regulation provided an exception not only to the maximum period of detention, but also to the 30-day review rule. The Court made clear that judicial review of continuing detention is still required when new facts or changed circumstances may make further detention inappropriate. Some human rights advocates criticized the opinion, arguing that it is an incorrect reading of the regulations that unduly restricts the rights of criminal defendants.

Prior to the September ruling by the Court of Appeals, the 30-day review deadline had been missed in an estimated 38 percent of all cases involving pretrial detainees during the year, an increase from approximately 25 percent the previous year. During the year, an average of 60 percent of the prison population were pre-trial detainees. On March 19, the East Timor National Mental Health Service reported an increase in mental health problems in pretrial inmates, which the health service attributed to isolation, especially from detainees' families, and uncertainties surrounding their trials. On May 13, a 17-year-old inmate attempted suicide twice after being in pretrial detention for more than 5 months.

The Constitution prohibits forced exile, and the Government did not employ it.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary. The Court Law provides that judges shall perform their duties "independently and impartially" without "improper influence." UNTAET regulations, still in force, include a Prosecution Law that requires public prosecutors to discharge their duties impartially. These regulations generally were respected.

The civil law court system includes four district courts (Dili, Baucau, Suai, and Oecussi) and one national Court of Appeal in Dili. The Ministry of Justice is responsible for administration of the courts and prisons and provides defense representation as well. The Prosecutor General is responsible for initiating indictments and prosecutions. The Government continued to make progress in establishing institutions that comprise the justice sector, but faced serious limitations in recruiting and training qualified judges, prosecutors, and defense attorneys. The judiciary's shortage of personnel, as well as bureaucratic and managerial inefficiency, contributed to the Government's inability to provide for expeditious trials (see Section 1.d.).

The Appeals Court became fully functional and heard its first cases in July. The Appeals Court is responsible for adjudicating appeals from the district courts. Until a Supreme Court is established, the Appeals Court will remain the country's highest tribunal.

Shortages of legal and judicial personnel affected the entire legal system, but affected disproportionately the operations of the Oecussi and Suai District Courts. During the year, the Oecussi District Court operated only at irregular intervals; in February, the Suai District Court completely ceased to function in Suai, although it convened sporadically in Dili.

The shortage of trained personnel also led to trials that were contrary to prescribed legal procedures. For example, the Oecussi District Court reportedly tried a suspect without legal representation rather than waiting for a public defender to become available. The Dili District Court reportedly tried and sentenced a defendant in absentia without notifying the defendant of his trial date and following any of the required preliminary procedures, such as the defense's response to the indictment or holding any preliminary hearings. In another case, the Appeals Court reportedly extended the 7-year sentence of a man found guilty of rape to 10 years without notifying the defendant of the hearing date in advance or providing him with legal representation.

Most trial judges and prosecutors had been trained only in Indonesian law and received their legal education in the Indonesian language, while most appellate judges and many senior government officials were trained elsewhere and speak little or no Indonesian. The Court of Appeal operated primarily in Portuguese, and a number of trial judges were being trained in Portugal. The UNTAET regulations, many of which are still in force, were available in English, Portuguese, and Indonesian, as well as in Tetum, the language most widely spoken in the country. Laws enacted by Parliament, intended to gradually supplant the Indonesian laws and UNTAET regulations, were published only in Portuguese, and many litigants, witnesses, and criminal defendants were unable to read the new laws.

The SCU, established by UNTAET in 2000, is responsible for investigations and indictments concerning genocide, war crimes, crimes against humanity, murder, sexual offenses, and torture that occurred in 1999. By year's end, the SCU had filed 81 indictments against 369 persons. Of these, 281 indictees remained at large in Indonesia with little chance of being returned to stand trial. In 2000, UNTAET established the Special Panels on Serious Crimes within the Dili District Court to try those charged with the mass killings and other gross human rights violations committed in 1999. The two Special Panels, each of which consists of two foreign judges and one local judge, have exclusive and "universal" jurisdiction to adjudicate cases concerning these human rights violations. By year's end, the Special Panels handed down 46 convictions, 1 acquittal, and 2 indictment dismissals.

The SCU worked very closely with the *Comissao de Acolhimento, Verdade e Reconciliacao de Timor Leste* (CAVR), or Truth and Reconciliation Commission of East Timor. While the SCU is mandated to investigate and prosecute crimes against humanity committed in 1999, the CAVR investigates human rights violations that occurred between April 1974 and October 1999. CAVR also facilitates reconciliation between victims and perpetrators of these violations (see Section 4).

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; however, there were a few reports of arbitrary interference with privacy, family, home, and correspondence. For example, on July 28, the Government seized the home of a popular opposition leader on questionable legal grounds. Although the legal merits of the case were unclear, many citizens and international observers believed that the timing of the action was politically motivated. The case was appealed to the courts; however, the trial had not begun at year's end.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however there were a few instances when government officials attempted to interfere with the press. For example, in August, a senior government official requested in writing that journalists working for the public broadcasting service be disciplined or criminally prosecuted because of their coverage of the eviction of a popular opposition leader (see Section 1.f.). In September, the Government notified one of Dili's two major daily newspapers that it must begin paying rent for the space it was using in a government building. UNTAET had permitted the newspaper to use the space without paying rent. After the newspaper agreed to lease the space, the Government reportedly reversed its position and issued a notice of eviction. Shortly before the issuance of this notice, a senior government official criticized publicly the newspaper's coverage of a case of alleged corruption and threatened to close the paper. At year's end, the newspaper was still waiting to hear whether the Govern-

ment would offer a fair market price or follow through with the eviction. The newspaper continued to operate normally.

There are two daily newspapers, two weeklies, and several bulletin newspapers that appear sporadically. Their editorials freely criticized the Government and other political entities.

The Public Broadcast Service (PBS) owned and operated a radio station and a television station. The PBS radio service was available throughout the country. The PBS broadcast television was available only in Dili and Baucau. In addition to the PBS radio station, there were 16 additional community radio stations including at least 1 in each district. Radio is the most important news medium for most of the country.

There were no legal or administrative restrictions on Internet access.

The Government did not restrict academic freedom.

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

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. More than 90 percent of the population is Roman Catholic, and there are small Protestant and Muslim minorities. Generally, religious minorities are well integrated in society. A group of Muslims of Malay descent had difficulty integrating into society and obtaining citizenship; however, this problem did not appear to be related to religion. Ethnic Timorese Muslims have not faced the same difficulties. During the year, there also were some reports that Protestant evangelists and their converts had been threatened and in some cases assaulted by members of the communities in which they were proselytizing and that the legal system was slow to respond to these charges.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the Government generally respected them in practice.

The conflicts in 1999 and pro-integration militia activity in 2000 and 2001 resulted in 250,000 East Timorese fleeing their homes and crossing the border into West Timor. By 2002, roughly 225,000 had returned home. During the year, an additional small number of East Timorese returned from West Timor. Although the Constitution protects citizens from expulsion and there is no crime of illegal entry of a citizen, confusion regarding the handling of returnees resulted in a number of detentions and near deportations of citizens. For example, on February 9, police officers mistakenly attempted to deport a family of five persons who returned to Oecussi. This case was resolved only after the office of the U.N. High Commissioner for Refugees (UNHCR) intervened on behalf of the family. In another case, an Investigating Judge reportedly issued a deportation order against a person who had returned to the country through an unofficial border crossing, without providing the person an opportunity to prove his citizenship in court. An appeal was pending at year's end. Parliament has subsequently passed the Immigration and Asylum Act that states, "All citizens who can prove East Timor citizenship have the right to enter the National Territory."

The Constitution provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. However, there were concerns that the country's regulations governing asylum and refugee status may preclude genuine refugees from proving their eligibility for such status. For example, persons applying for asylum have only 72 hours to do so after entry into East Timor. Foreign nationals already present in the country have only 72 hours to implement the process after the situation in their home country becomes too dangerous for them to safely return. A number of human rights and refugee advocates maintained that this time limit contravenes the 1951 Convention. These advocates also expressed concern that no written reasons are required when an asylum application is denied.

There were 14 applicants for asylum during the year. At year's end, two had been accepted under the UNHCR mandate, along with one refugee who applied in 2002. After the promulgation of the new Immigration and Asylum Act in September, responsibility for adjudicating the claims of asylum seekers shifted from UNHCR to the Government.

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. In May 2002, Xanana Gusmao was inaugurated as the first President, and, in accordance with the Constitution, the members of the Constituent Assembly were sworn in as the first National Parliament. At that time, Mari Alkatiri became the first Prime Minister of the country. The 88-member Assembly, elected in 2001, was charged with writing a constitution, which was completed in March 2002 and came into effect upon independence. Some observers criticized the provision under which the Constituent Assembly automatically became the Parliament and a parliamentary election is not required until 5 years after independence.

There were 23 women in the 88-seat Assembly. Women held two senior cabinet positions, Minister of State and Minister of Finance and Planning, and three vice minister positions. One of the three judges on the Appeals Court was a woman.

Small ethnic minority groups existed within the country. They generally were well integrated into society; therefore, the number of members of such groups in Parliament and other government positions was uncertain. Citizens of minority ethnicity are not precluded from holding office. Both the Prime Minister and the Secretary of State for Defense are members of ethnic minority groups.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Nongovernmental organizations (NGOs) have played an active role in assisting and advising in the development of the country, and numerous NGOs were established over the last 3 years.

The new Immigration and Asylum Act passed in September contains provisions that may limit the work of international NGOs, particularly those engaged in human rights advocacy. According to the new law, foreigners are prohibited from taking part in political activities. Specifically, foreigners may not engage, organize, or participate in activities including parades, rallies, and meetings of a political nature or that involve the affairs of the State. This provision could preclude foreigners and international NGOs from assisting labor unions or projects to promote the development of civil society. The rule could also allow the Government to restrict non-citizens from monitoring the criminal or judicial systems. There is a narrow exception in the new law, which exempts activities contracted by government institutions, funded by bilateral or multilateral assistance programs, and aimed at training or strengthening democratic institutions, which are constitutional and regulated by law or strictly academic in nature. A separate provision of the law allows the Government to prohibit foreigners from holding conferences and cultural exhibitions if the Government believes that the activities would jeopardize the interests of the country.

Although Parliament originally passed the bill on April 30, the President exercised his prerogative to request a constitutional review of the bill by the Appeals Court. After the Appeals Court found Articles 11 and 12 unconstitutional, the President vetoed the bill; however, on September 29, Parliament, by a two-thirds majority, voted to override the President's veto. The President subsequently signed the law, and it went into effect on October 15.

During the controversy over passage of the Immigration and Asylum Act, government officials repeatedly stated that the Act would not be used to restrict the legitimate activities of NGOs. However, in November, government officials threatened to use the Act against the International Republican Institute (IRI), which normally operated without government interference. In response to advance press reports that characterized the results of an IRI-sponsored public opinion poll as unfavorable to the Prime Minister, personnel from the office of the Prime Minister called to inform the IRI that the Prime Minister would declare the IRI to be in violation of the Immigration and Asylum Act. The IRI held its press conference announcing the poll results, and the Government did not declare that the IRI had violated the law; however, later in November, members of Parliament told the IRI that the President of Parliament had ordered them to stop attending meetings of the Women's Caucus that were sponsored by the IRI.

The Constitution mandates the creation of a Provedor (Ombudsman). On July 23, the Prime Minister and the Council of Ministers approved legislation to implement this provision, but had yet to submit the legislation to Parliament by year's end.

The CAVR, charged with inquiring into past human rights violations, is headed by 7 national commissioners and 29 regional commissioners in 6 regional offices.

The CAVR seeks truth and reconciliation through testimonials by victims and perpetrators of human rights violations. The Commission held numerous reconciliation meetings in locations throughout the country, in which perpetrators of relatively minor crimes during the 1999 campaign of violence confessed to their offenses and were reconciled with their victims and their communities. The CAVR has also addressed broader issues through public hearings and testimonials. For example, the CAVR held a 2-day public hearing on Women and Conflict, in which 14 women testified that during the Indonesian occupation they had been subjected to or had witnessed human rights violations including rape, destruction of homes, coercive family planning practices, and exiling of family members. The CAVR held a similar hearing on forced displacement and famine, and another to hear eyewitness testimony regarding several of the major massacres that occurred in the country during the occupation.

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

Government regulations prohibit all forms of discrimination. Nonetheless, violence against women was a problem, and discrimination against women, persons with disabilities, and members of minority groups occurred.

Women.—Domestic violence against women was a significant problem, and sometimes was exacerbated by the reluctance of authorities to respond aggressively to cases of alleged domestic violence. For example, a woman was hospitalized, allegedly after her husband beat her severely; however, police reportedly knew of the incident but did not act because the woman had not made an official complaint. In another case, a man brutally beat his pregnant sister, but the authorities dropped the matter after ordering him to report to authorities weekly for 2 months.

In some cases, a lack of resources was used to justify official inaction and failure to investigate or prosecute cases involving violence against women. For example, in May, police cited a lack of transportation as the reason they failed to arrest two chronic perpetrators of domestic violence. In another case, a man convicted of domestic violence charges was released on probation but was rearrested after he committed further acts of domestic violence. The man escaped from police custody 2 days later and returned to his wife's house. He was not rearrested for 2 weeks even though the police knew he was at his wife's house because, according to police, the officers lacked transportation.

Failures to investigate or prosecute, as well as long delays, also were common in cases of alleged rape and sexual abuse. While there were some examples of the justice system effectively pursuing cases involving violence against women, many cases were not pursued. For example, a man allegedly attempted to rape his 5-year-old niece on several occasions, the last on April 25. When the case was brought before a judge, the child's mother reportedly said she wanted to resolve the case using traditional law, and the judge released the suspect from custody. In another case, a woman who had been sexually assaulted took her case to police after failing to receive redress using traditional law. Police reportedly told her to drop the case because they claimed incorrectly that sexual abuse not resulting in rape is a civil rather than criminal matter. In yet another case, a woman believed to have a mental illness reported being raped by two men but did not receive medical care or an examination because the local police had no means to transport the woman to Dili. The two men were not prosecuted.

Official discrimination or lack of interest has also been alleged in cases in which women were victims of other crimes including homicide, kidnapping, and assault.

Government regulations prohibit persons from organizing prostitution; however, prostitution itself is not illegal. The Government had deported some alleged prostitutes on the grounds that they violated the terms of their visas.

There were no reports of gender-based employment discrimination during the year; however, women usually deferred to men when job opportunities arose at the village level.

Some customary practices discriminate against women. For example, in some regions or villages where traditional practices hold sway, women may not inherit or own property.

UNTAET created a Gender Affairs Unit, and this unit continued under the Government as the Office for the Promotion of Equality within the Prime Minister's office. The unit provided training to women entering public service and attempted to ensure women have a voice in the new government and civil society structures.

The East Timorese Women's Forum (FOKUPERS) offered some assistance to women who have been victims of violence and established a women and children's shelter for victims of domestic violence and incest. East Timor Women against Violence is a human rights NGO that supports women's rights. Various other NGOs have supported women through microcredit lending.

Children.—The Constitution stipulates that primary education shall be compulsory and free; however, no legislation establishing a minimum level of education to be provided has been adopted, nor has a system been established to provide for free education. According to a U.N. study, approximately 25 percent of primary education age children nationwide were not enrolled in school. The figures for rural areas were substantially worse than those for urban areas. Only 30 percent of children in lower secondary education (ages 13–15) were enrolled, with an even greater difference between urban and rural areas. At least 10 percent of children do not even begin school. These statistics are fairly consistent for both male and female students.

The low rate of vaccinations against communicable diseases was a serious concern. The U.N. estimated that only 5 percent of children between 12 and 23 months had been fully vaccinated and that 58 percent of children in this age range had not received any vaccinations. Under the U.N.'s Extended Program on Immunization, vaccinations and refrigeration equipment have been supplied to clinics in locations around the country. However, accessibility to these clinics and the lack of understanding of the need for vaccinations remained problems.

Persons with Disabilities.—Although the Constitution protects the rights of persons with disabilities, the Government has not enacted legislation or otherwise mandated accessibility to buildings for persons with disabilities, nor does the law prohibit discrimination against persons with disabilities. Nonetheless, there were no reports of discrimination against persons with disabilities in employment, in education, or in the provision of other state services; however, difficult access to schools in many districts resulted in many children with disabilities not attending school. Training and vocational initiatives did not give attention to the needs of persons with disabilities. During the year, some persons with mental disabilities faced discriminatory and/or degrading treatment due in part to a lack of appropriate treatment resources. In April, police detained a mentally disabled man in the local jail because there were no mental health facilities to care for him. He was released several weeks later. There were also reports in which families used shackles to restrain a family member with a mental illness because they did not have access to proper treatment facilities. Mental health authorities were able to intervene and provide treatment in some cases, but in general lacked the resources and staff to treat more than a small fraction of the country's mental health cases.

National/Racial/Ethnic Minorities.—Ethnic Chinese (who make up less than 1 percent of the population) and ethnic-Malay Muslims were sometimes discriminated against. Tensions between different language groups also were a problem. The adoption of Tetum and Portuguese as the two official languages appeared to exclude some non-Portuguese speakers from non-Tetum speaking regions of the country from political and civil service positions.

Section 6. Worker Rights

a. The Right of Association.—The country has a labor code based on the International Labor Organizations (ILO) standards. The law permits workers to form and join worker organizations without prior authorization. Unions may draft their own constitutions and rules and elect their representatives; however, attempts to organize workers generally have been slowed by inexperience and a lack of organizational skills. During the year, the Government established official registration procedures for trade unions and employer organizations.

Although there are no restrictions that would prevent unions from forming or joining federations or from affiliating with international bodies, the Immigration and Asylum Act prohibits foreigners from participating in the administration of trade unions.

b. The Right to Organize and Bargain Collectively.—While collective bargaining is permitted, workers generally had little experience negotiating contracts, promoting worker rights, or engaging in collective bargaining and negotiations.

The law provides for the right to strike, but few workers exercised this right during the year. In April, taxi drivers staged a brief strike. In September, some airport workers went on strike to protest the firing of two colleagues. This strike was allowed to continue peacefully even after a foreign labor leader was arrested for assaulting a police officer.

On December 4, Chubb Security fired 32 employees contracted to the World Bank for striking. The striking employees were protesting a wage cut implemented as a result of a new contract between the World Bank and Chubb Security several months earlier. Prior to the strike, the workers conducted 8 days of nonviolent picketing outside the World Bank offices. According to the labor union representing the workers, Chubb Security violated the rights of the workers because it failed to give

the legally mandated 30 days' notification prior to termination. Chubb Security defended its action by citing a clause in the labor law, which prohibits employees who provide an essential service, such as police, medical professionals, and persons providing public transportation, from striking. A government official stated that this case is expected to be resolved by the Labor Relations Board as soon as the members of the board are sworn in.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—Government regulations prohibit forced and bonded labor, including by children, and there were no reports that such practices occurred during the year. However, in the past, local leaders required a number of returnees accused of involvement in the post-September 1999 destruction to engage in compulsory labor as a means of punishing them for their alleged offenses. Examples of such compulsory labor included repairing damaged structures and community service in villages. The Government tolerated this practice. More recently the imposition of compulsory labor gave way to a “reception, truth, and reconciliation” process in which returning ex-militia members agreed to perform community service as a form of reparation for offenses they committed.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Labor Code largely prohibits children under the age of 18 from working; however, there are circumstances under which children between the ages of 15 to 18 can work, and there are even exceptional exemptions for children under 15. The minimum age did not apply to family-owned businesses, and many children work in the agricultural sector. In practice enforcement of the Labor Code outside of Dili was limited.

e. Acceptable Conditions of Work.—The Labor Code does not stipulate formally a minimum wage; however, employers generally used and employees expected a wage of \$85 per month as a minimum standard. The Labor Code provides for a maximum workweek and overtime, minimum standards of worker health and safety, days off, and other standard benefits. As required by the Labor Code, the Government nominated members to the National Labor Board, the Labor Relations Board, and the Minimum Wage Board. These boards are expected to receive training and begin work early in 2004. In addition, there are no restrictions on the rights of workers to file complaints and seek redress within these codes or other legislation. Workers have the right to remove themselves from hazardous conditions without jeopardizing employment; however, it was not clear that they could avail themselves of this right in practice. The law treats all workers, legal and illegal, the same in terms of wages and working conditions.

f. Trafficking in Persons.—The law prohibits trafficking in women and children, whether for the purposes of prostitution or for forced labor; however, there were several reports during the year of women and girls trafficked into the country for purposes of prostitution. In most reported trafficking cases, the victims and the traffickers were foreign nationals. On March 27, authorities raided a “fitness center” and discovered a foreign couple running a brothel with women and girls who had been recruited in Thailand with promises of employment as masseuses in a legitimate fitness center. The women and girls reported that soon after their arrival in East Timor, the owners began pressuring them to take part in prostitution, revealing that their rate of pay for legitimate employment would make it impossible to pay off transportation loans of \$1,500. Most of the victims, including one 15-year-old and one 17-year-old girl, were returned to Thailand where they were offered shelter and counseling by an NGO that assists trafficking victims. Others were allowed to remain in East Timor for a limited time in order to assist in the investigation and prosecution of the traffickers. Additional investigations resulted in the discovery and closing down of several similar activities. During the year, UNMISSET and the Government established a working group to monitor and control trafficking.

FIJI

Fiji is a constitutional republic with an elected President, Prime Minister, and Parliament. Ethnicity remained a dominant factor in the country's politics, economy, and society. Following free and fair elections in 2001, the political situation improved; however, concerns remained about the composition of the Cabinet. The 1997 Constitution requires that any party receiving more than 10 percent of the seats in Parliament be given cabinet positions. However, when Prime Minister Laisenia Qarase of the Duavata ni Lewenivanua (SDL) party formed a government in late 2001, it excluded the Fiji Labor Party (FLP) led by deposed Prime Minister

Mahendra Chaudhry, although the FLP had won substantially more than 10 percent of the parliamentary seats in the 2001 elections. The FLP took legal action against the Government, and in July the Supreme Court ruled in favor of the FLP. Subsequent negotiations between Qarase and Chaudhry broke down over the exact numbers of FLP M.P.s to be admitted into Qarase's Cabinet. The Supreme Court is expected to hear the resulting case in early 2004. The final two co-conspirators of May 2000 coup leader George Speight, Timoci Silatolu and Josefa Nata, were convicted of treason in March and sentenced in June. The Vice President, a government minister, and the Deputy Speaker of Parliament were all awaiting trial at year's end for their participation in Speight's takeover of Parliament in May 2000. The Constitution provides for an independent judiciary; however, the judiciary at times was subject to political influence.

During the year, civilian authorities generally exercised effective control of an unarmed civilian police force and the small Republic of Fiji Military Forces (RFMF). There were no instances where security forces acted independently of government authority. There were no reports of human rights abuses by the RFMF. However, there were occasional complaints of human rights abuses by the police.

The population of approximately 845,000 is multiracial and multicultural, with indigenous Fijians making up 51 percent, Indo-Fijians (descendants of immigrants from the Indian subcontinent) 42 percent, and Asians, Caucasians, and other Pacific Islanders making up the rest. Indo-Fijian families dominated the business sector and enjoyed higher average incomes; however, indigenous Fijians were the majority in government ministries and comprised the vast majority of members of the armed forces. One of the Government's primary goals was an affirmative action program, or "Blueprint," designed to aid indigenous Fijians in education and business. Sugar and tourism accounted for more than half of foreign exchange earnings. The inefficient sugar industry was hampered severely by industrial disputes and an outmoded infrastructure; however, tourism recovered during the year to just over the level it occupied before the 2000 coup. Foreign investment was depressed due to continuing concerns about the resolution of land lease issues and the pending Cabinet composition court case. The country's major trading partners, Australia and New Zealand, lifted sanctions imposed after the 2000 coup. Skilled workers and professionals continued to emigrate in large numbers.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Constitutional provisions maintain an ethnically based electoral system, and a number of government policies on hiring, education, and land tenure preferences provided protection for indigenous Fijian interests in accordance with those provisions. The ethnic divide between the governing SDL (mainly composed of indigenous Fijians) and the FLP (mainly composed of Indo-Fijians) remained a recognized obstacle to long-term political stability. The Prime Minister increasingly identified himself as the leader of all Fijians rather than of a single ethnic group. Nonetheless, ethnic discrimination remained a serious problem. On several occasions, Members of Parliament (M.P.s) made racist remarks against Indo-Fijians. A few evictions of Indo-Fijian tenant farmers by indigenous Fijian landowners continued to occur, although at a much lower rate than in previous years. Occasional police abuse of detainees and suspects occurred. Other human rights problems included restrictions on freedom of assembly, violence and discrimination against women, and some instances of abuse of children. Concerns were also raised about a proposal to replace Fiji's industry-constituted Media Council with a government-controlled one.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution provides for freedom from torture and cruel, inhumane, degrading, or disproportionately severe treatment or punishment; however, there were some reports of abuses by police.

The Police Department's Internal Affairs Unit is required to investigate complaints of police brutality. The law permits corporal punishment as a penalty for criminal acts, but the courts seldom invoked this provision. In response to public concern regarding police brutality, the Human Rights Commission conducted training courses for police field investigators, sergeants, and prison officers during the year.

In 2002, the son of deposed Prime Minister Mahendra Chaudhry filed suit against the 2000 coup leaders and several government institutions, including the army, seeking damages for abuses allegedly suffered while he was held hostage during the May 2000 armed invasion of Parliament. He indicated that he had been assaulted on several occasions and subjected to severe physical and mental cruelty. This case was still pending at year's end.

Prison conditions did not meet international standards, and prison conditions, particularly at Suva and Naboro Prisons, remained poor. The prison system was seriously underfunded, with deteriorating infrastructure and poor delivery of essential services, including food and sanitation. There were 991 prisoners in 18 prisons countrywide; the combined capacity for all prisons was 987 persons. Men and women were held separately; juveniles were held separately from adults; and pretrial detainees were separated from convicted prisoners.

The Government maintained a separate detention center on Nukulau Island near Suva for May 2000 coup leader George Speight and two of his supporters who were also convicted of treason. Detainees were granted some freedom of movement, including recreation, but facility access remained tightly controlled. Family members and a few other visitors were permitted to visit; however, the International Committee for the Red Cross (ICRC) was denied access. The police continued to investigate a number of Speight's supporters and those who financed the attempted takeover of Parliament in May 2000. At year's end, all of the others arrested in connection with the events of May 2000 had been convicted of lesser charges or released.

Aside from the special regime for prisoners on Nukulau Island, the Government permitted visits to prisons by church groups, family members, and the Fiji Red Cross.

d. Arbitrary Arrest, Detention, or Exile.—The law provides that a person may be arrested only if police believe that a criminal law has been broken or is about to be broken. Arrested persons must be brought before a court without “undue delay.” This requirement normally is taken to mean within 24 hours, with 48 hours as the exception. Detainees have the right to a judicial review of the grounds of their arrest; however, incommunicado and arbitrary detention continued to occur on occasion.

Corruption in the police force was a problem. Undertrained police officers received only on-the-job instruction, which may have contributed to the problem. In 2002, the police hired a large number of decommissioned military personnel as special constables, many of whom had criminal records. Police and immigration officials faced serious corruption charges relating to the entry of illegal Chinese immigrants into the country. Newspaper articles linked prominent police officials to an organized crime figure from the People's Republic of China (PRC), and police were accused of providing protection, forging documents, and destroying key files relating to criminal activity. At year's end, the criminal figure had eluded deportation, and no investigations had been initiated against the officials in question.

During the year, the Government hired an experienced Australian Commissioner of Police, who initiated programs to improve low police morale, addressing issues such as inadequate resources, long hours, and low pay.

The Constitution prohibits forced exile, and the Government did not practice it.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the judiciary at times has been subject to political influence.

The judicial structure is patterned on the British system. The principal courts are the magistrate courts, the High Court, the Court of Appeal, and the Supreme Court. Eight of nine Supreme Court justices are expatriate judges, who are often used in key cases at lower levels. There are no special courts; military courts try members of the armed forces. Magistrate courts continued to try the large majority of cases. In addition to its jurisdiction in serious civil and criminal cases, the High Court is granted special interest jurisdiction on behalf of the public and is empowered to review alleged violations of individual rights.

Defendants have the right to a public trial and to counsel. Trials in the High Court provide for the presence of assessors (citizens randomly selected to represent the community); cases in magistrate courts do not. Many rape and sexual assault cases were heard in the magistrate courts; since magistrates are not authorized to impose sentences longer than 5 years in prison, this resulted in light sentences in most domestic or family law cases. The Legal Aid Commission provided counsel to some indigent defendants, a service supplemented by pro bono services from private attorneys. The right of appeal existed but was hampered by delays in the judicial appeals process. Bail was granted freely. The courts had a significant backlog of cases, with processing slowed further by a shortage of prosecutors. Some defendants faced lengthy pretrial detention.

The law sometimes treated women differently from men. In some instances, there was a presumption of reduced competence and thus reduced responsibility for women. For example, only women could be charged with infanticide; if a man kills an infant, the act is treated as murder, a more serious charge. A female defendant in an infanticide case was presumed to have diminished mental capacity, and sentences were reduced or suspended accordingly. The controversial draft Family Law Bill introduced in 2002 was finally voted into law in November. Its provisions include giving illegitimate children the same rights as legitimate children, the establishment of “no fault” divorce, and the establishment of a family court.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The Government generally respected the privacy of the home. However, the Home Affairs Ministry, as well as the police and the armed forces, have the power and capability to search persons and property, access private financial records, and monitor mail and telephones when a warrant is issued by the National Security Council. Police checkpoints were seen much less often than in the previous year; military checkpoints were not used during the year. The Home Affairs Ministry conducted surveillance of persons whom it believed represented a security threat.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Controls instituted in July 2000 restricting the right to meet and speak out on human rights and democracy were eliminated in 2001.

The Media Council’s Complaints Committee, a private watchdog group of media and academic figures, accepted complaints related to the media and published its findings during the year. Most of the complaints cited inappropriate media coverage, including invasions of privacy, and there were no complaints regarding government pressure on or interference with the media.

The Government proposed changes to the Media Council that would replace the current body with a government-constituted Council. Public reaction was strong and almost universally negative. By the end of the year, the Government’s plans remained on hold, but had not been withdrawn.

A variety of opinions, including criticism of the Government, were heard in all major media outlets. Political figures and private citizens could and did speak out regarding the country’s political situation and against the Government. Letters on editorial pages and editorials that ran in the three English-language dailies frequently contained political statements from a wide cross section of society critical of the Government. However, the Public Order Act and other laws prohibited actions that were likely to incite racial antagonisms. The Government generally did not interfere in the daily operations of the media.

Legislation pertaining to the press is contained in the Newspaper Registration Act and Press Correction Act. Under these acts, all newspapers must be registered with the Government before they can publish. The acts give the Minister of Information sole discretionary power to order a newspaper to publish a “correcting statement” if, in the Minister’s view, a false or distorted article was published. Should a newspaper refuse to publish the Minister’s correction, it can be sued in court and, if found guilty, fined approximately \$500 (FJ\$925). Individuals in such cases can be fined, imprisoned for 6 months, or both. These acts authorize the Government to arrest any person who publishes “malicious” material. This would include anything the Government considered false information that could create or foster public alarm or result in “detriment” to the public. However, this authority has never been used.

The country’s television news production was owned and operated by Fiji One, one of only two national non-cable television stations. A trust operating on behalf of the provincial governments owned 51 percent of Fiji One; the other 49 percent was owned by private individuals and interests. The Government removed Fiji One’s monopoly status, but by year’s end, no other commercial broadcast television stations were in operation. The Government owned the Fiji Broadcasting Corporation, which operated four radio stations. There were several thriving independent radio stations broadcasting in English, Fijian, and Hindi.

Under the Television Act, the Government is allowed to influence programming content. The Government considered legislation requiring Fijian-culture content programming; however, there was no attempt to use the programming authority during the year.

In the past, government holdings in Fiji TV One and the Fiji Post and Fiji Sun newspapers raised questions as to the complete independence of the press. However, these and other media outlets frequently criticized the Government during the year

regarding implementation of its affirmative action policies, ministerial competence, alleged scandals, and racist remarks by M.P.s. Muted criticism of the traditional chiefly system has also appeared.

The Fiji News Council worked to improve journalistic standards, safeguard media independence, and resolve complaints from the public. The Fiji Islands Media Association, an affiliate of the Pacific Islands News Association, also provided training opportunities for journalists and established a media code of ethics.

The Government did not restrict Internet access.

Academic freedom was generally respected; however, government work-permit stipulations and University of the South Pacific contract regulations effectively deterred most university employees from participating in domestic politics. Many academics wrote for the media and included disclaimers in their work to preclude contract or work permit problems.

b. Freedom of Peaceful Assembly and Association.—The 1997 Constitution provides for the right to assemble for political purposes, subject to restrictions in the interest of public order. In practice, most applications for the required meeting permits were denied.

The 1997 Constitution provides for freedom of association, and the Government generally respected this provision in practice. Other than the restrictions on public meetings, opposition parties operated without government interference. Political organizations operated and issued public statements.

c. Freedom of Religion.—The 1997 Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government did not restrict foreign clergy and missionary activity or other typical religious activities. Religious groups were not required to register. Religious differences are largely along ethnic lines; most ethnic Fijians are Christians, and most Indo-Fijians are Hindu, with a sizable minority of Muslims. The Government protected the rights of all religious groups. However, junior Muslim civil servants in the Revenue and Customs Authority were ordered to shave off their beards, on the grounds that beards were not neat and gave an unprofessional image to the organization. Some of these employees requested a reversal of the order, but it remained in effect at year's end. The major holidays of Christianity, Hinduism, and Islam were celebrated nationally.

The role of religion was tied closely to existing racial antagonisms and continued to be a political issue. Prominent figures in the Methodist Church and allied political parties continued to advocate the establishment of a Christian state. This position received public support from several M.P.s. The Church has displayed strong nationalist sympathies; former Methodist Church General Secretary Tomasi Kanilagi was appointed a senator in 2001. During the year, a number of Fiji's Senators made remarks perceived to be racially biased. Those parties dominated by Indo-Fijians did not support the establishment of a Christian state and insisted that church and state should remain separate. The Prime Minister's SDL party remained silent on the issue.

Religious leaders in the minority Muslim population continued to request the establishment of separate Islamic courts for their community; however, the issue was not prominent during the year. In 2002, a small Hindu temple suffered minor vandalism; the Government and others condemned the act.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights; however, the Government has broad powers to limit freedom of movement in the interest of national security, and access to Nukulau Island, site of a maximum-security detention center for persons charged with treason, was restricted during the year.

Citizens are free to emigrate. The majority of emigrants have been Indo-Fijians, although many ethnic Fijians have left the country as well. The Government does not restrict the return of citizens. Occasional detentions at the airport occurred, but the courts have ordered redress where warranted.

The law includes provisions for providing refugee and asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. In the past, the Government has been reluctant to grant temporary protection without assurances that the asylum seeker would be moved to a third country.

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

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

The 1997 Constitutional amendments reduced the ethnically based factors that previously had abridged the right of citizens to change their government. Under the provisions of the amended Constitution, the Prime Minister and the President may be of any race. The amendments established a 71-member lower house with 25 seats open to any ethnicity and 46 seats allocated to different ethnic communities. The unprecedented open seats were established by an electoral commission and apportioned into districts of approximately equal population. Of the 46 communal seats, 23 were allotted to indigenous Fijians, 19 to Indo-Fijians, 3 to "general voters" (for the most part mixed-race, Caucasian, and East Asian voters), and 1 to Rotumans (an ethnically distinct Polynesian group). These allotments are roughly proportional to the current ethnic composition of the country's population. The amended Constitution also contains an alternate voting system for elections to the lower house to replace the first-past-the-post system of the previous constitution. The Senate remained an appointed body, in which the President appoints 32 members and approves 14 members nominated by the Great Council of Chiefs, 9 nominated by the Prime Minister, 8 nominated by the opposition leader, and 1 nominated by the Council of Rotuma. Several persons prominently and publicly involved in the 2000 coup were named to the Senate by the Prime Minister.

In August 2001 elections, Prime Minister Laisenia Qarase's SDL party received the largest number of seats in Parliament; Qarase was asked to form a government by President Iloilo. However, despite a constitutional provision requiring that any party which receives more than 10 percent of the seats in Parliament be offered inclusion in the Cabinet, the Qarase Government excluded Mahendra Chaudhry's Fiji Labor Party (FLP). Chaudhry subsequently took legal action against Qarase; due to the appointment of a new Chief Justice in July 2002 and to dilatory tactics by the Government, the case was not heard until June 2003, with a decision handed down in July. The Supreme Court affirmed the 2002 decision of the Court of Appeal and instructed the Prime Minister to proceed with an offer of cabinet seats for Chaudhry's party. Subsequent negotiations between Qarase and Chaudhry broke down over the exact numbers of FLP M.P.s to be admitted into Qarase's Cabinet; the Supreme Court is expected to hear the resulting case in early 2004.

Timoci Silatolu and Josefa Nata, the final two co-conspirators of May 2000 coup leader George Speight, were convicted of treason in March and sentenced in June. In May, charges also were brought against Vice President Jope Seniloli, who had served as the president of the rebel government, and against Minister for Youth and Sport Isireli Leweniqila, for their participation in Speight's takeover of Parliament in May 2000. At year's end, Vice President Seniloli and Minister Leweniqila, as well as Deputy Speaker of Parliament Ratu Rakuita Vakalalabure, were awaiting trial on coup-related charges.

The reluctance of witnesses to provide statements against prominent citizens allegedly involved in the takeover of Parliament reportedly has hampered investigations. During the year, there were continued calls for action against some persons implicated but still not charged in the May 2000 coup, the November 2000 mutiny, and a separate, abortive mutiny conspiracy in December 2000.

Fiji's 71-seat House of Representatives included 5 elected and one appointed female M.P.s, while the 32-member Senate included two women. After the 2001 election, four ethnic Fijian women were appointed to the Cabinet (two as ministers and two as assistant ministers). Women also play important roles in the chiefly system and can be chiefs in their own right. The wife of former President Ratu Mara is one of the three highest-ranking chiefs.

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

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

The constitutionally mandated Human Rights Commission (HRC) appeared to be impartial and independent. The HRC has received approximately 1,000 requests for assistance since it began operation in 1999. Most involved alleged abuses by military, police, and prison officers following the 2000 coup. Although it had a backlog, the commission worked closely with the judiciary and government officials to address outstanding cases. The HRC has investigated most of the coup-related claims, as well as allegations against the military involved in the November 2000 mutiny. The HRC's work was hampered by the Constitutional Redress Rules, which stipulated that the HRC and others had to file a human rights case in the High Court

within 30 days of receiving the complaint. The HRC continued to host a weekly radio program to educate citizens about their rights under the 1997 Constitution, and it conducted educational workshops and training.

There were also several small, foreign-based organizations that concentrated on local human rights causes, including the Coalition for Democracy in Fiji (with offices in New Zealand and Australia) and two United Kingdom-based groups, the International Fiji Movement and the Movement for Democracy in Fiji. There was little interaction between the Government and these groups.

The ICRC continued to operate an office in the country.

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

The Constitution prohibits discrimination based on race, sex, place of origin, political opinion, color, or creed. It also provides specific affirmative action provisions for those disadvantaged as a result of such discrimination. A compact included in the Constitution specifically provides for affirmative action and “social justice” programs to secure effective equality of access to opportunities, amenities, and services for ethnic Fijians and Rotumans and for all disadvantaged citizens and groups. The Constitution cites the “paramountcy” of Fijian interests as a guiding principle for the protection of the rights of indigenous citizens.

Women.—Domestic abuse, rape, and incest were major problems. Reliable estimates indicated that 10 percent of women had been abused in some way. An active women’s rights movement addressed the problem of domestic violence. Police have adopted a “no-drop” rule, under which they prosecute cases of domestic violence even when the victim does not wish to press charges. Nonetheless, cases of domestic abuse and incest were often dismissed by courts or received minimal sentences. The traditional practice of reconciliation between the aggrieved parties was sometimes taken into account to mitigate sentences in domestic violence cases, particularly in cases of incest.

The women’s rights movement pressed for serious punishment for rape. Sentences varied widely but were generally lenient. Women’s groups continued to urge that all rape cases be heard in the High Court, where lengthier sentences were available. However, by law an accused rapist retains the right to choose between the High Court and magistrates’ courts. Only one case in the last 7 years has been sent to the High Court for sentencing, after it was tried in the magistrates’ courts. In December, a sentence of 11 years was issued in that case, the rape of a foreign citizen. Since there have been no effective prosecutions for marital rape, women’s activists continued to press for the explicit inclusion of marital rape in a new Domestic Violence Bill, due to be debated by Parliament in 2004.

Prostitution is illegal; however, it was a growing problem, particularly in Suva. The law prohibits sex tourism as well as sexual harassment; neither was considered to be a significant problem.

Suva, Ba, Labasa, and Lautoka have women’s crisis centers funded by foreign governments, which offer counseling and assistance to women in cases of domestic violence, rape, and other problems such as child support. The NGO Femlink Pacific distributed information at the grassroots level and encouraged community-based dialogue. The Ministry of Women provides a Gender Awareness Program to educate soldiers and police officers about women’s issues.

Under the Constitution, male and female citizens enjoy equal rights in regard to the granting of residence for spouses, and with regard to the registration and racial designation of children for purposes of enrollment on electoral rolls and entitlement to ethnic communal property rights.

Women had full rights of property ownership and inheritance, and a number were successful entrepreneurs. Other than a prohibition on working in mines, there were no legal limitations on the employment of women. Women were generally paid less than men.

Children.—Although hampered by resource constraints, the Government devoted 19 percent of the national budget to education and also worked to improve children’s health and welfare. School is mandatory until age 15. The inability of some families to pay school fees and bus fare limited attendance for some children. During the year, in response to a case brought by the HRC, the High Court ruled that corporal punishment in schools was illegal. Before the Court’s decision, there were several reports of corporal punishment in schools early in the year.

Societal changes have undermined traditional village and extended family-based structures. Outgrowths of these changes have included increased child abuse and a number of homeless youths in urban areas. Some youths found employment in the informal sector. Children worked on the streets, in homes as domestics, and in auto repair shops. Homeless children were often seen on the street working as shoeshine boys or involved in prostitution. A 2001 police report noted increases in the number

of street children engaged in prostitution. Child prostitution, along with prostitution in general, appeared to increase during the year and affected both the ethnic Fijian and Indo-Fijian communities.

The Ministry of Labor had few or no resources to investigate reports of child labor or to charge offending employers. The legal system was inadequate to protect the rights of children, since children's testimony was largely inadmissible unless corroborated by an adult.

The Government provided free medical care for children at public health centers and hospitals. Government nurses provided free immunizations for children in primary schools.

Persons with Disabilities.—The Constitution provides for equality before the law of all persons, including persons with disabilities, and discrimination against the physically disabled in employment, education, and the provision of state services is illegal. However, there was no legislation or mandated provision for accessibility for persons with disabilities, and there was little or no enforcement of laws protecting persons with disabilities.

The Fiji National Council for Disabled Persons worked to protect the rights of persons with disabilities. Several voluntary organizations also promoted greater attention to the needs of persons with disabilities.

Persons with mental disabilities were largely separated from society and were normally supported at home by their families. There were a few special schools for persons with mental disabilities; however, their costs limited access.

National/Racial/Ethnic Minorities.—Tension between ethnic Fijians and Indo-Fijians has been a longstanding problem. While 1997 amendments to the Constitution noted that "the composition of state services at all levels must be based on the principle of reflecting as closely as possible the ethnic composition of the population," it also specified the "paramountcy of Fijian interests" as a protective principle (see Section 5). George Speight, leader of the Parliament takeover in May 2000, professed to be acting on behalf of ethnic Fijians in his attempt to overthrow a government led by the country's first Indo-Fijian Prime Minister (see Section 3).

Senators appointed by the Prime Minister have made numerous racial slurs directed against Indo-Fijians.

During the year, the SDL Government worked to ensure the political supremacy of ethnic Fijians. During the year, approximately one-fourth of valid complaints to the HRC dealt with racial and ethnic equality issues.

Land tenure remained a highly sensitive issue. Ethnic Fijians communally held over 80 percent of land, the Government held another 8 percent, and the remaining land was freehold. Ethnic Fijians' traditional beliefs, cultural values, and self-identity are tied to the land. Most cash crop farmers were Indo-Fijians, who leased land from the ethnic Fijian landowners through the Native Land Trust Board. Many Indo-Fijians, particularly farmers, believed that the absence of secure land tenure discriminated against them. Many traditional, communal indigenous Fijian landowners, in turn, felt that the rental formulas included in the Agricultural Land Tenure Agreement (ALTA) discriminated against them. A number of agricultural landlord and tenant agreement leases have expired, and many more will expire in the next few years. Racial tensions and grievances over low rents for agricultural lands resulted in several highly publicized illegal evictions of Indo-Fijians and reoccupations of land by native Fijian landowners. There were also several cases of Fijian landowners extorting so-called goodwill payments from their Indo-Fijian tenants. Almost none of these violations were prosecuted. The appointment of a respected moderate as head of the Native Land Trust Board in 2002 assuaged ethnic tension over land issues somewhat.

The Government pressed strongly for changes in the existing ALTA to accommodate landowner concerns; however, lacking sufficient support to amend the ALTA, Parliament took no action on the matter during the year.

In 2002, the Government implemented a new Rural Housing Assistance Scheme that, unlike the previous housing assistance plan, limited benefits to indigenous communities.

The minority Chinese community continued to grow dramatically, primarily through illegal immigration. There was a steep rise in illegal activities, including murder, that allegedly were connected to Chinese organized crime. A special police unit, the Asian Crime Unit, investigated criminal activity within the ethnic Chinese community.

Section 6. Worker Rights

a. The Right of Association.—The law protects the right of workers to form and join unions, elect their own representatives, publicize their views on labor matters, and determine their own policies, and the authorities respected these rights in prac-

tice. However, the law permitted restrictions to these rights in the interests of defense, public safety, public order, public morality, or public health, or to protect the rights and freedoms of other persons. In 2002, these restrictions were used by the Government to cut short strike actions. An estimated 55 percent of the wage-earning workforce was unionized.

All unions must register with, but are not controlled by, the Government. The major central labor body is the Fiji Trades Union Congress (FTUC), which in the past was associated closely with the opposition Fiji Labor Party; unions operated under its auspices. In recent years, the FTUC has adopted a more independent political stance. In August 2002, some unions broke away from the FTUC and formed a new labor group, the Fiji Island Council of Trade Unions. While certain unions remained ethnically based, both Indo-Fijians and ethnic Fijians held leadership roles in the trade union movement.

Unions can affiliate internationally; the FTUC is affiliated with the International Confederation of Free Trade Unions and the International Labor Organization (ILO).

In December, the Government, the FTUC, and the Fiji Employers' Federation signed a letter of intent reaffirming their commitment to respect the fundamental principles and rights contained in eight core ILO conventions.

b. The Right to Organize and Bargain Collectively.—Workers have the right to organize and bargain collectively. Employers are required to recognize a union if more than half of the employees in a workplace have joined it. The Government has the power to order recalcitrant employers to recognize unions, and has done so. Union recognition occurs when a fixed percentage of workers sign membership cards; no ballots are held to determine representation. Traditional key sectors of the economy, including sugar and tourism, were heavily unionized. However, there were no laws to protect workers who organized unions in a factory, resulting in low unionization in the country's garment factories. While the law encouraged unionization, union organizers' jobs were not protected. Since employers reserved the right to fire union organizers, some workers were afraid to unionize. Thus, unions were effective bargaining tools for older, more established industries, such as sugar and mining, but less effective for newer industries, such as the garment industry. Wage negotiations were generally conducted at individual companies rather than on an industry-wide basis.

Strikes are legal, except in connection with union recognition disputes, and trade unions can conduct secret strike ballots without government supervision. In order to carry out a legal strike, organizers must give the employer 28 days' notification. The Ministry of Labor also must be notified of the dispute and receive a list of all striking employees, the starting date of the strike, and location of the strike. This requirement is intended to allow the organizers, unions, employers, and Ministry of Labor time to resolve the dispute prior to a strike. There were 25 strikes in 2002, of which 20 were declared illegal by the Minister of Labour and Industrial Relations. During the year, there were 15 strikes, all of which were declared illegal. When a strike is declared illegal, the dispute is referred to a Permanent Arbitrator, but the strikers are ordered back to work. Most disputes, including those in which strike action was deemed illegal, were settled by referral to a Permanent Arbitrator.

Union officials operated without interference during the year.

Export processing zones (EPZs) are subject to the same laws as the rest of the country. However, the FTUC has been unsuccessful in obtaining collective bargaining agreements in EPZs and claimed that intimidation of workers by employers was widespread. The FTUC argued that because of illegal and intimidating practices, including threats of loss of work for those active in organizing workers, unions were effectively prevented from representing workers in the EPZs.

c. Prohibition of Forced or Bonded Labor.—The Constitution specifically prohibits forced or bonded labor, including by children, and there were no confirmed reports that such practices occurred. However, media reports and NGOs have alleged that work conditions in some garment factories might include forced or bonded labor and excessive work hours. In 2002, there were media reports of PRC women subjected to bonded labor at a garment factory.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Government has adopted some laws to protect children from exploitation in the workplace, but enforcement of these laws was lax. Children under the age of 12 may not be employed in any capacity. Children under age 15 may be employed only outside of school hours in family enterprises, and not in the industrial sector. Young persons between the ages of 15 and 17 may be employed in certain occupations not involving heavy machinery, with specified hours and rest breaks. In practice, enforcement of these regulations by the Ministry of Labor was generally ineffective. There were

only two inspectors at the Ministry of Labor, who conducted regular annual workplace inspections, and no investigators to follow up claims or reports of violations. During the year, migration of rural youth to urban areas continued, and youths continued to find employment in the informal sector, including work as shoeshine boys, casual laborers, and in prostitution.

The Government has not ratified ILO Convention 182 on the worst forms of child labor. The law does not define the worst forms of child labor. The laws implementing and enforcing child labor regulations were insufficient; there were no adequate enforcement remedies and no comprehensive policy to eliminate the worst forms of child labor.

e. Acceptable Conditions of Work.—There was neither a national minimum wage nor a limit on maximum hours for working. Certain sectors had minimum wages set by the Ministry for Labor. Minimum wage levels provided a sparse but adequate standard of living for a worker and family in all sectors other than the garment industry, where no minimum wage applied. There were no regulations on maximum hours of work for adult males. Other than a prohibition from working in mines, there were no limitations on female employment. Workers in some industries, notably transportation and shipping, worked excessive hours. Factory housing for garment workers was overcrowded.

There are workplace safety regulations, a Worker's Compensation Act, and an accident compensation plan. However, government enforcement of safety standards suffered from a lack of trained personnel and lags in compensation hearings and rulings. Unions generally monitored safety standards in organized workplaces, yet many work areas did not meet standards and were not monitored by the Ministry of Labor for compliance. By law, employees have the right to remove themselves from a hazardous work site without jeopardizing their employment, but most feared the loss of their jobs if they did so. The ILO maintained an office in Suva.

There were a growing number of nonunionized and sometimes illegal immigrant workers (predominantly ethnic Chinese), particularly in the garment sector.

f. Trafficking in Persons.—There are no laws that specifically address trafficking in persons, although laws against procuring a woman to become a prostitute, kidnapping, and bonded and forced labor could be used to prosecute traffickers. There were no substantiated reports of trafficking in persons to, from, or within the country during the year.

There was an increase during the year in persons arriving in or transiting the country with altered or falsified travel documents; the police believed that an organized Asian criminal network in the country coordinated these and other illegal movements of persons. However, most appeared to be economic migrants rather than victims of trafficking. Police have received unsubstantiated reports of the use of forced labor from the PRC in the garment factories in Western Viti Levu, the country's largest island. However, law enforcement has made no arrests and has not investigated the reports. In 2002, there were media reports of PRC women forced to work as bonded laborers in a garment factory.

Child prostitution was also a problem, affecting both the ethnic Fijian and Indo-Fijian communities (see Section 5). There were no confirmed reports that children were trafficked to or from the country for this or any other purpose.

The Government did not sponsor or provide assistance to any programs to combat or prevent trafficking in persons.

INDONESIA

Indonesia is a republic with a presidential system and three branches of government. The President is head of state and serves a 5-year term for a maximum of two terms; the President was Megawati Soekarnoputri. The country's upper legislative body is the People's Consultative Assembly (MPR), which convenes once a year and has the power to amend the Constitution. Routine legislative affairs, including enacting legislation, are the responsibility of the 500-member House of Representatives (DPR). During the year, the Government made progress in its transition from three decades of repressive and authoritarian rule to a more pluralistic and representative democracy. This transition included a decision to reduce the formal political role of the police and military, who retained their appointed seats in the DPR during the year but were scheduled to relinquish them in 2004. The Constitution provides for an independent judiciary; however, in practice the courts remained subject to influence, including by the executive branch.

The military (TNI) ostensibly is responsible for external defense and the police are responsible for internal security; however, in practice, the division of responsibilities

continued to be unclear. They are known collectively as the security forces. The military played an overlapping role in internal security matters, particularly in conflict areas such as Aceh, the Maluku Islands, Central Sulawesi, and Papua (formerly known as Irian Jaya). There was considerable friction between the police and the TNI, but in conflict areas, joint operations were common. A civilian defense minister oversees the military, but in practice exercised very limited control over TNI policy and operations. The military and, to a much lesser extent, the police continued to wield significant political influence as well as economic power through businesses operated by security force members, their proxies, and foundations. The security forces showed greater willingness to hold accountable human rights violators within their ranks; at least 35 soldiers were court-martialed during the year and dozens of police officers were dismissed or otherwise disciplined. However, most such disciplinary actions involved lesser crimes, such as beatings, and in many cases punishments did not match the crime. Members of the security forces, including from the Army's Special Forces (Kopassus) and the Police Mobile Brigade (Brimob), continued to commit numerous serious human rights violations, including extrajudicial killings, torture, rape, and arbitrary detention.

During the year, the economy, which increasingly was market-driven, grew by 3.7 percent; however, 3 to 4 percent growth failed to reduce unemployment or to absorb the estimated 2.5 million new job seekers entering the market every year. Nonetheless, the actual poverty rate fell from 27 percent in 1999 to 16 percent in 2002. The population was approximately 230 million. Consumer demand was the leading force driving economic growth.

The Government's human rights record remained poor, and it continued to commit serious abuses. Security force members murdered, tortured, raped, beat, and arbitrarily detained civilians and members of separatist movements. The Government also frequently failed to protect adequately the fundamental rights of children, women, peaceful protestors, journalists, disabled persons, religious minorities and indigenous people, among others. Human rights abuses were most apparent in Aceh province, the scene of a long-running separatist revolt. Despite the signing of a December 2002 ceasefire between the Government and the Free Aceh Movement (GAM), little progress was made on demilitarization, and alleged violations by GAM prompted the Government to place the province under martial law on May 19 and launch its biggest military operation since 1975. This operation was aimed at eradicating GAM and was ongoing at year's end. Despite some evidence that military commanders wished to improve the behavior of their troops in the field, numerous human rights violations occurred. Unlawful killings, beatings, and torture by soldiers, police, and rebels were common. In many cases, the victims were not combatants but civilians. Accurate figures on human rights abuses in Aceh were extremely difficult to obtain.

In the provinces of Maluku, North Maluku, and Central Sulawesi, respect for human rights improved; however, beginning in October, there was an upsurge in violence in Central Sulawesi. Nevertheless, the death toll for the year fell: 22 persons were killed in Central Sulawesi, and 17 were killed in the Malukus. Approximately 200,000 persons remained displaced in the 3 provinces during the year.

In the easternmost province of Papua, where separatist sentiment has been strong for decades, there was no improvement in the human rights situation. The most serious violations took place in the Central Highlands, where at least one, and perhaps as many as 10, extrajudicial killings occurred, in addition to numerous acts of torture and politically motivated arson. The TNI and police jointly investigated the August 2002 ambush near the town of Timika, which killed three persons, but the probe was ineffectual, due largely to limited cooperation between the two security services. By year's end, no arrests had been reported. Also in Papua, the Government effectively delayed implementation of the Law on Special Autonomy for the province, undermining efforts to improve basic welfare and development. In contravention of the law, the Government also initiated the partition of the province into three separate provinces, which provoked clashes that resulted in the deaths of five persons in Timika.

Retired and active duty military officers who were known to have committed serious human rights violations occupied or were promoted to senior positions in both the Government and the TNI. During the year, the country's Ad Hoc Tribunal for Human Rights in East Timor convicted only four former or serving security force members of crimes against humanity over the 1999 violence in East Timor, in which at least 1,000 persons were killed. The tribunal's performance reinforced the impression that impunity would continue for soldiers and police who committed human rights abuses.

Terrorists, civilians, and armed groups also committed serious human rights abuses during the year, and the Government was in some cases unable or unwilling

to prevent these abuses. On August 5, members of the Jemaah Islamiyah (JI) terrorist organization set off a powerful bomb at Jakarta's Marriott Hotel, killing 12 persons. By year's end, the Government had arrested 14 persons for the bombing. The Government also achieved success in establishing accountability for the October 2002 bombings in Bali, which killed 202 persons. The Government identified, apprehended, and prosecuted at least 80 persons allegedly involved in the attack. In addition, mob vigilante action and religious groups purporting to uphold public morality continued to dispense "street justice."

Police used excessive and sometimes deadly force in arresting suspects and often used torture, sometimes fatally, in attempting to obtain information or a confession. Prison conditions remained harsh. The judicial system was corrupt, and this contributed to the Government's failure, in most cases, to provide redress to victims of human rights violations or hold civilian perpetrators accountable. Security force violators used political power, not money, to avoid justice. Land disputes generated numerous human rights abuses. These frequently involved forced evictions, some accomplished with lethal force. The Government jailed at least five peaceful anti-government protestors for "insulting the President" or "spreading hatred against the Government." Politicians and tycoons showed greater willingness to take legal action against news organizations whose work they found insulting or offensive, and this trend undermined press freedom. Members of the security forces and other groups limited freedom of expression by intimidating or attacking journalists whose content they found objectionable. The Government frequently restricted the activities of nongovernmental organizations (NGOs). Violence and discrimination against women remained problems. Female genital mutilation (FGM) occurred. Child sexual abuse and violence against children remained serious problems. Discrimination against persons with disabilities and mistreatment of indigenous people were problems. The Government allowed new trade unions to form and to operate, but it frequently failed to enforce labor standards or address violations of worker rights. Forced child labor remained a serious problem. Trafficking in persons was a serious problem; however, the Government took some initiatives to address the problem, including drafting an anti-trafficking law.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The security forces continued to employ unlawful killing against rebels, suspected rebels, and civilians in separatist zones, where most of the politically motivated extrajudicial killings occurred. There was evidence that the TNI considered anyone its forces killed to have been an armed rebel, particularly in areas where the TNI had announced an operation and told all civilians to leave. The security forces also committed numerous extrajudicial killings that were not politically motivated. The Government largely failed to hold soldiers and police accountable for such killings and other serious human rights abuses, particularly in Aceh.

The TNI tried, jailed, and discharged some soldiers for rape, robbery, and torture; however, no security-force members were prosecuted for unlawful killings in Aceh.

In Aceh, military and police personnel committed many extrajudicial killings and used excessive force against non-combatants as well as combatants. Between December 9, 2002 and May 18, 2003, a Cessation of Hostilities Agreement (COHA) was in effect between the Government and the GAM. According to the Center for Humanitarian Dialogue, which monitored the ceasefire, fewer than 50 violent deaths occurred during this 5-month period, representing a significant decrease from the 1,307 violent deaths during the 11 months prior to the signing. However, little progress was made on demilitarization or the establishment of a political dialogue. The rate of violence began to surge in April, and, after last-minute negotiations between the two sides broke down on May 18, the Government placed Aceh under martial law. The President provided written authority for an anti-insurgency operation, unlike previous military operations in Aceh and elsewhere in the country (see Section 2.d.). On May 19, the Armed Forces launched their largest military offensive since 1975, involving around 45,000 members of the Army, Navy, Marines, and police force. They were confronted with what the Government said were 5,325 armed GAM rebels. The operation led to a significant increase in violent deaths in Aceh during the year.

For numerous reasons, accurate figures on the number of persons killed in Aceh were difficult to obtain. Martial law administrators limited information coming out of Aceh, including restricting access for foreign journalists, blocking cell phones and forbidding contact with GAM. The Government effectively prohibited foreign humanitarian aid workers from the province, except for a limited number of U.N. workers.

Data from different sources, even within the Government, were often contradictory. NGO sources frequently questioned casualty figures announced by the security forces, claiming the number of victims was much higher, and that many of those killed were civilians. Security forces and rebels gave conflicting information on victims' identities, making it difficult to determine the breakdown of civilian, rebel, and security force deaths. During the early weeks of the military operation, many of the killings appeared to be executions. The Government and the GAM accused each other of killing captured combatants, and there was evidence to support such claims. Press reports undercounted the number of casualties. Police rarely investigated extrajudicial killings and almost never publicized such investigations.

On December 31, Aceh's provincial police chief, Inspector General Bahrum Syah Kasman, told reporters that during the military operation, 580 GAM members had been killed, along with 470 civilians, 50 soldiers and 26 police officers, for a total of 1,126 deaths. The police figure for GAM deaths was lower than that provided by the TNI earlier in the year, when the TNI simply reported all non-security force deaths as GAM deaths. The Aceh police force's figure for security force deaths also differed from information provided by the martial law administration, which noted on its website on December 20 that 105 soldiers and police had been killed in Aceh in the line of duty since the start of the military operation. On September 30, the Aceh branch of the Committee for Missing Persons and Victims of Violence (Kontras) stated that at least 342 civilian noncombatants were summarily killed or executed between May 19 and October 1, but noted that the total could be much higher and that the military was preventing NGOs from carrying out monitoring work. Sources linked to the Aceh Referendum Information Center (SIRA) reported that, during the first 6 months of the military operation, there were 520 noncombatant deaths. However, the sources did not identify the perpetrators.

The security forces were implicated in a number of unlawful killings. On May 20, Muhammad Jamaluddin, a cameraman with the government television network Televisi Republik Indonesia (TVRI), disappeared near the network's office in Banda Aceh. On June 18, Red Cross workers recovered Jamaluddin's body from a river on the edge of the city. His body displayed marks of torture and his arms were tied behind his back. NGO sources indicated that Jamaluddin might have been murdered because he was suspected of providing information to GAM and allowing rebels to borrow his camera equipment (see Section 2.a.). The case resembled that of Musliadi, a student activist abducted and later murdered by suspected intelligence operatives in November 2002. NGO sources indicated that security forces suspected that Musliadi had also been a GAM informer.

On May 21, army troops killed 10 men in Cot Rebo village, Bireuen. Residents told reporters after the incident that the men were part of a local guard force protecting the village's shrimp ponds. The military claimed that all the victims were GAM members but conceded that it had seized no weapons in the incident.

On June 16, unknown persons abducted a Kontras-Aceh volunteer, Muzakkir Abdullah, in the North Aceh area of Nisam, a GAM stronghold. The following day, villagers found Muzakkir's body tied to a tree, his throat slashed. Kontras-Aceh stated it believed that Muzakkir's killing was part of an intimidation campaign by the security forces against human rights activists in Aceh. The tactic of leaving a body in a public place had been used by the TNI in the past as a form of intimidation.

The Government made no progress in establishing accountability in a number of extrajudicial killings in Aceh in 2002, including the June killings of two farmers on Kayee Ciret Mountain and the August killings of three women in the north Aceh village of Kandang.

During the year, GAM members killed many soldiers, police, civil servants and civilians. In many cases, the victims were killed for allegedly collaborating with the security forces, while in other cases the motive appeared to be purely criminal. Although many Acehnese feared and resented the security forces, many also disliked GAM because of its extortion rackets and the criminal activities of some of its members. On May 20, residents of the Bireuen village of Geudong Alue discovered the body of Jamaluddin Hasany, a member of the local legislature. He had a gunshot injury to the stomach. Witnesses said he had left his house with a group of men the night before and never returned. On July 7, in the Bireuen village of Samalangan, unidentified gunmen shot and killed a former female GAM member, Cut Aca Budi, who had surrendered to the TNI 5 days earlier. Budi was home at the time and her young daughter was also shot and wounded. On July 22, in the Pidie village of Baroh Jong, unknown persons shot and killed a husband and wife, Muslim Sualaiman, 38, and Darmawati, 34, who were returning home from their workplace, an Islamic elementary school. GAM often targeted teachers as the most familiar civil servants in rural areas.

The Government did not report any progress in prosecuting those responsible for unlawful killings that might have been carried out by GAM members in previous years, including those of Zaini Sulaiman, Sukardi, Sulaiman Ahmad, Tengku Safwan Idris, and Nashiruddin Daud. Police continued their investigation into the 2001 killing of Dayan Dawood, rector of Banda Aceh's Syiah Kuala University who was shot after offering to mediate between the GAM and the Government; however, they refused to provide details on the case, apart from naming a suspect, Mahyudin, which might be the legal name of Tengku Don, a GAM rebel and suspect arrested in 2002 in this case.

Numerous unlawful killings that occurred in Aceh during the year could not be clearly attributed to either the security forces or GAM rebels. In early June, a local NGO reported evidence of a mass grave in Kreung Tuan, Nisam District, which had long been a GAM stronghold. According to the NGO, the grave may contain the remains of approximately 30 persons. In addition, other mass graves containing a total of at least 34 corpses were reportedly located near the Permata District villages of Guci and Wehnpasee. The TNI attributed the killings to GAM, an accusation the rebels denied. At year's end, it was unclear how many bodies existed in mass graves or who put them there. On December 31, a bomb exploded at an outdoor concert, killing nine persons. It was unclear whether the blast was linked to the separatist conflict. In the Aceh village of Lambhuk, a group of unidentified gunmen shot and killed a resident, Subhan, in his home. Police investigated and concluded that the attack was related to extortion. Subhan drove a fuel truck and his supervisor reportedly refused to make a hefty "tax" payment. In the East Aceh village of Kampung Baru, an unidentified gunman shot and killed school principal Rasyid near a police station. Police stated that they were unable to apprehend the assailant.

There were no known developments in the following cases of unlawful killings in previous years: The March 2002 killing of six persons in the town of Lombaro Angan, Aceh Besar District, which followed an incident in which 30 policemen were ambushed while searching for GAM rebels; the September 2002 killings of two high school girls in the village of Gumpueng Tiro, Pidie Regency; and the August 2001 massacre of 31 persons at a palm oil plantation run by PT Bumi Flora in Idi Rayeuk, East Aceh. Witnesses in the Bumi Flora attack told Human Rights Watch (HRW) that they believed that TNI soldiers carried out the killings.

In the eastern provinces of Central Sulawesi, Maluku, and North Maluku, unlawful killings also occurred. In these provinces, communal violence in previous years caused the death of thousands of Christians and Muslims and displaced hundreds of thousands more. During most of the year, the level of violence declined, continuing a trend from the previous year. Although violent incidents did occur, the death toll was down dramatically: By year's end, approximately 22 persons had been killed in Central Sulawesi and 17 in the Malukus, compared with more than 100 conflict-related deaths, total, in 2002. The Government-brokered Malino I and II peace agreements between the two religious communities remained in effect, and residents increasingly recognized that their disputes were not based on religious differences.

In Central Sulawesi, political and economic tensions had long existed among the roughly equal populations of Christians and Muslims, and inter-religious violence flared in 1998. By 2002, after approximately 2,000 persons had been killed and more than 100,000 displaced, the violence subsided. During the year, unlawful killings included the February 8 shooting of a bus passenger by a Brimob officer, who was subsequently dismissed, convicted, and sentenced to 1½ years in prison. On June 2, unknown gunmen opened fire on two men in the Poso village of Kapompa, killing Yefta Barumuju and injuring a colleague. On July 10, in the Poso village of Sayo, a bomb exploded at a cafe, killing one person and wounding five others. Violence surged in October, after the Government withdrew large numbers of security force members from the province. Unidentified assailants killed at least 14 persons during the month, some in an attack on the Morowali community of Beteleme. Nine suspects were arrested in the wake of the Beteleme attack, but none was tried by year's end. In October, attacks on mainly Christian villages killed 10 persons; police investigations continued at year's end. On November 29 and 30, unidentified persons shot and killed 2 men in the Poso coastal villages of Kilo Trans, home to ethnic Balinese migrants, and 2 men in the Christian village of Marowo. No arrests were made by year's end. The Government reported little progress in establishing accountability in the following 2002 cases: The June bombing of a crowded passenger bus, which killed 5 persons, and the prosecution of former Laskar Jihad members for numerous crimes committed in the province.

In July, TNI authorities in Central Sulawesi announced that they would court-martial 14 soldiers in connection with several abductions and extrajudicial killings

committed in Poso in December 2002. The 14 were reportedly court-martialed in the city of Manado during the year; however, the Government did not publicize the results of the proceedings.

In South Sulawesi province, the Government approved the creation of a new regency named Mamasa. On September 29, unknown persons killed two Mamasa residents in favor of the move; another disappeared. The following day, unknown persons killed another resident. Police later identified six suspects, most linked to a group that opposed the creation of the new regency. At year's end, the six suspects remained at large.

In Maluku and North Maluku, where sectarian violence erupted in 1999 following years of political, economic, and territorial tension, virtually no island had been spared from the conflict by 2000 and 2001. In February 2002, after thousands of deaths and hundreds of thousands of displacements, the Christian and Muslim communities agreed to work for peace. During the year, the peace accord, Malino II, remained intact; an increased security-force presence followed, and members of Laskar Jihad returned to their homes on Java and elsewhere. However, some unlawful killings did occur. For example, on January 14, a bomb exploded in Ambon, killing one person and injuring two others. On March 8, a man was shot and killed on the Maluku island of Haruku by a sniper. No arrests were reported by year's end. On August 19 in Ambon, a soldier was shot and killed with a standard military rifle. Police and military officials stated that the motive was unclear.

The Government made some progress during the year in prosecuting those responsible for human rights abuses committed in the Malukus in 2002 and previous years. On July 23, the North Jakarta District Court convicted Bertu Loupatty, former leader of the Christian Ambonese "Coker" gang, of numerous bombings and other attacks committed in 2000, 2001, and 2002 and sentenced him to 11 years in prison. Loupatty's attorney reported that his clients told him that Kopassus troops had facilitated many of the attacks, providing instructions, weapons, and bombs, and police asserted that some Kopassus members had helped the gang commit various crimes. A senior TNI official denied these assertions and stated that police had tortured the gang members. These allegations were not investigated, and no TNI members were charged. Among the attacks for which Loupatty was convicted was the April 2002 raid on the Ambonese village of Soya, which killed at least 12 persons.

During the year, there were no reports of any former Laskar Jihad members being convicted for crimes in the Malukus. On January 30, the East Jakarta District Court acquitted former Laskar Jihad chief Jafar Umar Thalib of inciting religious violence and two other charges. Human rights activists suspected high-level intervention in the case. They expressed concern that Thalib, whose Islamic militia killed large numbers of Maluku Christians before disbanding in October 2002, had not been charged with more serious crimes.

In Papua province, where separatist sentiment remained strong and the Government continued to conduct operations against rebels of the Free Papua Movement (OPM), there was only one confirmed case of unlawful killing by the security forces during the year. On April 15, TNI members killed Yapenas Murib in the Central Highlands city of Wamena. Dozens of witnesses saw TNI troops march Yapenas through the streets to military headquarters. Shortly thereafter, TNI officials announced that Yapenas had died in custody. A human rights activist and a doctor who viewed the corpse stated it bore clear marks of torture. Murib's body reportedly had been punched and cut until "multi-colored" and dead. In the remote Highlands area of Kuyowage, where the military launched an operation following an April 4 break-in at the Wamena armory, as many as 9 other Papuans reportedly were killed. The National Human Rights Commission (KOMNAS HAM) launched an investigation in December, stating it had come across evidence that suggested that on April 17, unknown parties shot and killed at least four Kuyowage men: Alius Murib, Yínggen Tabuni, the Rev. Enggelek Tabuni and Yesaya Telenggen. In another incident, there were unconfirmed reports that police in Wamena shot and killed an unidentified Papuan separatist on July 7. The man was reportedly one of as many as 20 persons who tried to raise the Papuan "Morning Star" flag in front of the district parliamentary office (see Section 2.b.).

Also in Papua, the TNI and police continued to jointly investigate the August 2002 ambush that killed 2 American citizens and 1 Indonesian and injured 12 other persons near a large gold and copper mine close to the city of Timika. The victims were teachers on a recreational outing. Several persons dressed in military fatigues reportedly stopped the teachers' convoy in a heavy fog on the Tembagapura-Timika road and fired at the vehicles at close range. During the initial police investigation, senior police officials were quoted in the press as suggesting that soldiers were involved in the attack. During the year, the joint probe was not able to ascertain who

was responsible for the attack. Police contended they could not investigate the case without TNI cooperation. The TNI claimed that its investigation, which pinned the blame on OPM rebels, was conclusive and determined that soldiers were not involved. The TNI maintained that police access to soldiers was not necessary. Top government officials, including President Megawati, pledged to support ongoing efforts to identify and bring to justice the perpetrators of the attack. The case remained under investigation at year's end.

The Government made little progress in establishing accountability for numerous human rights violations committed in Papua in previous years, including those committed in the Biak and Abepura incidents. However, the Government formed an investigative team to probe the 2001 Wasior incident, in which police allegedly killed 12 civilians following an attack on a police post that left 5 policemen dead. During the year, there were developments in the case of Theys Hiyo Eluay, the Papuan pro-independence leader found dead in his car outside the provincial capital of Jayapura in 2001. In January, a military court in Surabaya opened the trial of seven Kopassus troops charged with Theys' murder. On January 31, the lowest-ranked defendant, Achmad Zufahmi, testified that he accidentally choked Theys to death. Zufahmi and the other defendants asserted that they were ordered to escort Theys home after a festive event at Kopassus headquarters in South Jayapura, when a verbal argument erupted. The defendants testified that Theys and his driver Aristoteles (who remained missing at year's end) shouted out for help. Zufahmi said he then covered Theys' mouth, but this conflicted with a medical report from Jayapura Hospital, which stated that Theys' death was caused by an obstruction to his windpipe. On April 21, the court convicted the seven soldiers of causing the death and sentenced them to a maximum of 3½ years in prison. One of those convicted, Lieutenant Colonel Hartomo, also was discharged from the military. The lightness of the sentences outraged many Papuans, as did a comment by the Army Chief of Staff Ryamizard Ryacudu, who called the killers "heroes."

In Banten province in western Java, the Government prosecuted those responsible for the March 2002 killing of Endang Hidayat, the village chief of Binuangun. Seven members of the Presidential Guard kidnapped and executed Endang after he informed police that one of them had purchased stolen motorcycles. During the year, military prosecutor Major Zulkifli announced that a military court had convicted the seven guardsmen and sentenced them to between 4 and 6 years' imprisonment. Zulkifli reported that a higher court upheld the ruling. At year's end, the seven were held at the Siliwangi prison in Bandung, West Java and were appealing their cases to the Supreme Court.

In Kalimantan, where clashes between indigenous Dayaks and ethnic Madurese settlers left hundreds of Madurese dead in 2001, there were no reports of ethnicity-related killings during the year.

Police frequently used deadly force to apprehend suspects or acted recklessly in pursuit of suspects, and this sometimes resulted in the deaths of civilians. In other cases, suspects in police custody died under suspicious circumstances. During the year, broadcast media in East Java aired videotaped incidents in which suspects with their hands in the air were beaten severely by the police. On July 11 in Jakarta, alleged JI member Ihwanuddin was in police custody and reportedly managed to steal a rifle, enter a bathroom, and commit suicide with the rifle. Police Chief Makbul Padmanagara noted that Ihwanuddin was handcuffed at the time and the rifle was partly disassembled. On February 10, on the island of Rote, near West Timor, a sub-district police commander identified by the initials H.B. fatally burned a burglary suspect named Arnoldus Adu. The sub-district commander allegedly doused the suspect with fuel during an interrogation and ignited him by lighting a cigarette. It is not clear whether the killing was intentional or whether the fuel was intended to scare the suspect into signing a confession. National Police Chief Da'i Bachtiar subsequently ordered the sub-district commander's dismissal. No criminal charges were brought by year's end. On June 1, two police officers in the East Java city of Probolinggo beat a local resident to death using their rifle butts. A police van was traveling past a group of youngsters when one yelled "Hey". The police stopped the van and attacked him. Thousands of persons protested the killing, and Probolinggo's police chief, AKBP Ahmad Lumumba, promised to respond fairly; however, no action was taken against the responsible officers by year's end. On June 27, Surabaya police officer Dwi Budi fatally shot street vendor Budiono, who was allegedly helping a criminal evade arrest. An eyewitness claimed that Dwi Budi was intoxicated. The police force reportedly placed Dwi Budi under arrest. The case was pending at year's end. Police in Makassar, South Sulawesi did not take disciplinary action against police officers who in September 2002 shot and killed a suspected gang member who was in their custody. The officers involved claimed they shot the suspect in the back when he tried to escape. In April, a court in Sura-

baya, East Java convicted seven Kopassus troops of causing the 2001 death of Papuan leader Theys Eluay and sentenced them to a maximum of 3½ years in prison.

The Government made little progress during the year in prosecuting those responsible for the Semanggi and Trisakti cases. In May 1998, four students at Jakarta's Trisakti University were shot and killed, and a number of police officers were implicated. Later in 1998, also in Jakarta, at least nine demonstrators were shot and killed at the Semanggi intersection. In September 1999, at the same location, police shot and killed four more demonstrators who were protesting proposed changes to the National Security Law. On June 10, the court-martial began of an enlisted man, one of three TNI soldiers indicted for reckless killing in connection with the second Semanggi incident. The soldier was accused of fatally shooting student Yap Yun Hap in September 1999 without orders from his superior. Two other defendants, who were officers, were to be tried separately. At year's end, all of the cases were pending.

During the year, bombs exploded in or near the cities of Ambon, Banda Aceh, Jakarta, Medan, and Poso, among others. For example, on August 5, members of the Jemaah Islamiyah (JI) terrorist organization set off a powerful car bomb in front of Jakarta's Marriott Hotel, killing 12 persons. By year's end, the Government had arrested 13 persons in connection with that attack.

The Government made significant progress in prosecuting those responsible for bombings carried out in previous years. Authorities worked to identify, apprehend, and successfully prosecute many of those who committed the Bali bombings of October 2002, which killed 202 persons. Investigators arrested more than 35 suspects, several of whom acknowledged ties to JI, the terror group linked to al-Qa'ida. By year's end, courts in Denpasar, Bali and Lamongan, East Java had convicted approximately 30 persons in connection with the Bali attacks. Key suspects Amrozi bin Nurhasyim, Ali Ghufron bin Nurhasyim (Mukhlas), and Abdul Aziz (Imam Samudra) were sentenced to death for their roles in planning and executing the attacks. In another case, the Supreme Court on July 18 rejected the appeal and extended the prison term of Tengku Ismuhadi Jafar, one of four men convicted for the 2000 bombing of the Jakarta Stock Exchange. On October 13, the Central Jakarta District Court convicted Abdul Jabar of transporting and detonating a bomb that exploded in 2000 at the Jakarta residence of the Philippine Ambassador. Jabar, who was also found guilty of involvement in two church bombings on Christmas Eve 2000, received a 20-year sentence. Following the December 2002 bombings in Makassar, South Sulawesi, the Makassar District Court convicted two suspects; 16 other trials were still underway at year's end.

Mobs carried out vigilante justice on many occasions, but reliable statistics on its prevalence were not available. Incidents of theft or perceived theft triggered many such incidents. For example, on January 12, in the Central Java village of Kendal, a mob killed two men for allegedly trying to steal electrical cables. Local residents allegedly caught the men in the act, tied them up, took them to a clearing, doused them with fuel, and set them on fire. On September 18 in Tangerang, near Jakarta, a mob killed two men who were allegedly attempting to steal a motorbike owned by a motorcycle taxi driver. The driver's shouts for help drew attention, and a mob seized the two men and killed them with rocks and knives. No official action was taken against those responsible for these killings.

Police and soldiers clashed on a number of occasions during the year, and at least one death was reported. On March 4, a group of 20 Air Force officers attacked a police station following the arrest of one of their intoxicated comrades. During the attack, police detective Salmon Panjaitan was stabbed and killed. The security forces later announced that approximately 20 Air Force officers had been detained for questioning. There were no reports of further action by the authorities in this case at year's end.

At schools, universities, police training centers, and other institutions, upperclassmen or superiors sometimes physically mistreated underclassmen or subordinates in continuation of a practice that dated back many years. During the year, a number of such incidents resulted in death. On September 1 in Palu, Central Sulawesi, members of Brimob hazed and killed five recruits. The victims were among 16 recruits who collapsed before reaching the finish line in a 5-mile initiation march. Witnesses reported that the cadets were beaten and kicked savagely. National Police Chief Da'i Bachtiar told DPR members that police authorities had detained the Central Sulawesi Brimob chief and six Brimob members for questioning. On September 2, there was an incident of systematic abuse in Sumedang, West Java, when upperclassmen at the Government-run Public Administration Institute (STPDN) allegedly strangled sophomore Wahyu Hidayat. An STPDN student said upperclassmen beat Wahyu to teach him a lesson in loyalty after he failed to appear at a flag-raising ceremony on Independence Day. Ten students were later charged in connec-

tion with the death. On December 10, their trials opened at the Sumedang District Court and were ongoing at year's end.

b. Disappearance.—During the year, hundreds of disappearances occurred, most frequently in Aceh province, and large numbers of persons who disappeared over the past 20 years, mainly in conflict areas, remained unaccounted for at year's end. The Government reported little progress in prosecuting those responsible for disappearances that occurred in previous years.

According to the Government, at least 297 persons disappeared in Aceh following the May 19 imposition of martial law (see Section 2.d.) and the launching of the military operation in the province. Provincial police commander Sayed Husaeny reported that the missing included journalists, civil servants, village chiefs, and bus passengers.

The security forces were implicated in some disappearances. On March 25 in Bireuen town, plainclothes military intelligence officers seized two student activists, Mukhlis and Zulfikar, members of Link for Community Development, a local NGO. The detentions were made in broad daylight on the main street of the district capital and took place during a demonstration by local residents opposing the construction of a police post in their neighborhood. Photographs taken by other participants clearly showed the two victims getting into an unmarked van. Witnesses stated that its plate numbers indicated it belonged to the local district military command (Kodim). Friends of the two, who were also students at the Ar-Rainy Islamic Institute in Banda Aceh, received text messages from the cell phones of the victims later in the day; however, no one has seen them since. Both TNI and police authorities in Bireuen and Banda Aceh denied holding the two men. At year's end, their whereabouts remained unknown.

The Government did not take significant action to prevent security force members from carrying out kidnappings. It was unclear whether any persons illegally detained by police or soldiers in Aceh died in custody during the year.

The GAM also abducted persons during the year. On June 29, in the East Aceh area of Peureulak journalists Ersya Siregar and Fery Santoro of television network Rajawali Citra Televisi (RCTI) disappeared as they were driving along the main Medan-Banda Aceh highway. After 3 days, the local GAM commander admitted that his men had taken Siregar and Santoro into custody, along with the wives of two Air Force officers traveling with them, to question them about their activities. Efforts by both RCTI and the International Committee of the Red Cross (ICRC) to arrange for their release failed. On December 11, the driver escaped from GAM custody. On December 29, Siregar was killed in a TNI ambush of the GAM patrol with which he was traveling. At year's end, Santoro and the wives remained in custody.

During the year, prominent Muslim leaders accused police of mistakenly arresting Islamic activists in the search for members of JI, the terrorist group responsible for the October 2002 Bali bombings and other attacks. Police denied targeting religious activists. On September 8, plainclothes police officers in the Central Java city of Solo rounded up Suradi, a fried cake seller, and Ichsan Miyarso, a tire repairman, and took them to Jakarta. Police suspected the two of involvement with JI. Police planned to hold them for up to 7 days, the period allowed by the Anti-Terrorism Law for detention without charge; however, police failed to notify the families of the detainees within 24 hours of their arrest, in accordance with criminal law. Both men were released later in the year.

In Papua, there were no credible reports of disappearance during the year. The Government did not report any progress in prosecuting those responsible for disappearances that occurred in previous years, including those of Martinus Maware, Mathius Rumbapak, or Hubertus Wresman.

In Central Sulawesi, Maluku, and North Maluku, there were no credible reports of disappearance during the year. The Government made some progress in prosecuting those responsible for disappearances that occurred in Central Sulawesi in 2002. On July 16, TNI Major Wempi Hapan, head of the province's military police, announced that the TNI would court-martial 14 soldiers over abductions and extrajudicial killings committed in the Central Sulawesi regency of Poso in December 2002. The TNI accused 2 lieutenants and 12 privates of kidnapping of dozens of civilians in the Toyado area, but declined to make their names public. The soldiers allegedly abducted the civilians in December 2002, after one of their commanders was shot in the head during a clash between Christians and Muslims in the Sepe area. Some of the abducted civilians turned up dead, while others remained missing at year's end.

The Government made limited progress in prosecuting those responsible for the 1996 attack by hundreds of pro-government civilians and soldiers on the Jakarta headquarters of what was then the Indonesian Democratic Party (PDI); 23 persons disappeared and 5 persons died in the attack. The Central Jakarta District Court

charged five persons, three of them civilians, with vandalism and assault during the attack: Colonel (retired) Budi Purnama, Lieutenant Suharto, Mochammad Tanjung, Jonathan Marpaung, and Rahimmi Illyas. However, Petrus Kurniawan, a key figure in a group pressing for accountability, called the trial an "orchestration," saying the defendants were field operators, not the leaders behind the attack. Police investigators submitted to prosecutors six dossiers on the case, but prosecutors returned five of them, stating that they were incomplete. Named in the allegedly incomplete dossiers were Jakarta Governor Sutiyoso, who in 1996 served as Jakarta's military commander; former State Intelligence Chief Zacky Anwar Makarim; Brigadier General Syamsiar Wangsamihardja; former Jakarta Police Chief Hamami Nata; Central Jakarta police official Abubakar Nataprawira; Colonel Haryanto; and former PDI Chairman Soerjadi.

The Government made no progress toward prosecuting those responsible for the late 1997 or early 1998 disappearances of 12 or more pro-democracy activists, including poet Wiji Thukul. At an August 1 seminar in Jakarta marking International Day of the Disappeared, relatives of some of the missing criticized the Government for not doing enough to solve the cases. Payan Siahaan, the father of missing Perbanas college student Uok Aris Munandar, believed the Government knew whom the leaders and perpetrators of the kidnappings were, but had no political will to arrest and prosecute them. Tuti Kotto, the mother of missing political activist Yani Afri, said no investigation had ever been undertaken despite the fact that her son was reportedly seen at Kopassus headquarters after he was kidnapped in 1997.

Retired Army Lieutenant General Prabowo Subianto, who once admitted ordering the abduction and torture of nine pro-democracy activists, competed for the presidential nomination of the Golkar party, as did retired Armed Forces Commander General Wiranto, who was indicted by the U.N. Special Crimes Unit for his role in the 1999 violence in East Timor.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Criminal Code makes it a crime punishable by up to 4 years in prison for any official to use violence or force to elicit a confession; however, in practice, law enforcement officials widely ignored such statutes. Security forces continued to employ torture and other forms of abuse. The Government made some efforts to hold members of the security forces responsible for acts of torture. During the year, the use of torture to obtain confessions from suspects was most apparent in Aceh and Papua. According to the International Catholic Migration Commission (ICMC), at least 694 cases of torture were recorded in the country during the year. Kontras reported 289 confirmed torture cases for this period, more than two-thirds occurring in Aceh or Papua.

Torture was sometimes used to obtain confessions, for punishment, and to seek information that incriminated others in criminal activity. Torture also was used by the security forces to extort money from villagers. NGOs that worked with torture survivors, including ICMC, reported that the use of torture appeared to have increased over the previous 3 years; however, reliable figures were difficult to obtain. Physical torture cases included random beatings and acts involving the hair, nails, teeth, and genitals. Heat, suffocation, electricity, and suspension were also used. Psychological torture cases reportedly included food and sleep deprivation, sexual humiliation, being forced to witness torture, and being forced to participate in torture.

During the year, press restrictions in Aceh province limited media reports on cases of torture there. However, some cases were reported. In June, the military sentenced six soldiers to jail terms of between 4 and 5 months for the torture and beating of civilians in the Bireuen Regency village of Lawang. The soldiers reportedly committed the crimes after the civilians failed to hand over a rebel whom the troops said was hiding in the village. On August 31, 12 soldiers tortured and beat residents of the North Aceh village of Geulumpang Sulu Barat. Witnesses said the crimes were committed when residents failed to provide information on a wanted man, who allegedly escaped on a motorcycle while the questioning was underway. On October 10, a military court in Lhokseumawe acquitted the 12 soldiers, stating that although the troops had beaten civilians, they could not be held responsible because the victims and witnesses had been unable to identify the assailants. In June, Brimob officers in Banda Aceh detained 12 individuals (10 of them State Institute of Islamic Studies (IAIN) University students), took them to a police station, interrogated them over possible GAM links, and beat them.

According to Kontras, at least 17 verified cases of torture or beatings involving women or children were recorded in Aceh during the military operation, which began on May 19 and continued through year's end. According to a November press report, a TNI military commander in Aceh, Brigadier General Bambang Darmono, declared that beating suspected rebels was acceptable: "For example, my soldier

slugs a suspect across the face. That's no problem, as long as he is able to function after the questioning. [But] if it's gross torture, which causes someone to be incapacitated . . . that's a no-no."

The Government reported no progress in prosecuting those responsible for acts of torture committed in Aceh in 2002, including the beating and burning of civilian Rizki Muhammad.

In the Papuan city of Wamena, where unidentified gunmen raided a government armory on April 4, TNI officials announced that a suspect detained for questioning, Yapenas Murib, had died in their custody on April 15; his body bore clear marks of torture (see Section 1.a.). KOMNAS HAM launched an investigation into reports that dozens of residents of the Central Highlands area of Kuyowage were tortured by unknown parties during a military operation that followed the break-in at the Wamena armory. NGO activists reported that the victims were burned with cigarettes and struck in the face or legs with wooden planks. Kontras reported that at least 124 men were tortured in Papua during the year. In one case, an OPM member who was detained and interrogated at Wamena military headquarters on May 3 and 4 reported that, while there, he saw another ethnic Papuan whom he recognized from the town of Tium "whose fingernails and toenails had all been ripped out." The Government did not report any progress in prosecuting those responsible for acts of torture committed in Papua in 2002, including the torturing to death of Yanuarius Usi.

On August 6 in Banyuwangi, East Java, police abducted Mohammad Bian from his house in the village of Wonoroje late at night and during the following 24 hours of his detention, tortured him. Bian was in a land dispute with real estate company PT Budisanjaya, also known as PT Wonorejo. The police released Bian after attorneys from the Legal Aid Society of Surabaya filed a complaint with the East Java police chief.

Rapes, some punitive, occurred frequently in conflict zones. Human rights advocates blamed many of the rapes on soldiers and police. Statistics were unavailable, but credible sources provided a number of accounts that involved both soldiers and police. In 2002, an interfaith organization operating in Poso, Central Sulawesi, reported high rates of depression among female internally displaced persons (IDPs) because many had been raped and impregnated by Brimob members.

At schools, universities, police training centers and other institutions, upperclassmen or superiors sometimes physically mistreated underclassmen or subordinates. This was not a new development but the continuation of a practice that dated back many years. During this period a number of such incidents resulted in death (see Section 1.a.). On July 17, a number of female graduates of a Jakarta senior high school abducted 17 girls and abused 7 of them. On September 8, the South Jakarta District Court sentenced four of the perpetrators to 3 months in prison.

In June in Bali, JI member and Bali bomber Ali Ghufro bin Nurhasyim (Mukhlas) complained that he had been tortured in police custody. Mukhlas alleged that he had been struck in the genitals with sticks, burned with matches, and forced to make a false confession. However, police and prosecutors insisted that defense attorneys were present when Mukhlas was questioned, and there was no physical evidence of the alleged torture.

The Government failed to make progress in establishing accountability for the May 1998 riots, which included acts of torture and other attacks against Chinese Indonesian women in Jakarta and other cities. From March through September, an investigative team from KOMNAS HAM investigated the incident, received the testimony of dozens of witnesses, and identified 20 suspects. However, at the end of the investigation, team leader Solahuddin Wahid declined to publicly name the suspects, some of whom were members of the police and military. The team summoned 86 civilians, mostly witnesses, to testify; all but 5 complied. The team also summoned 48 government, military, and police officials, of whom only 3 complied. Among those who did not comply were former Armed Forces commander Wiranto, TNI spokesman Major General Sjafrie Sjamsoeddin, and the former commander of the Army's Strategic Command Reserve (Kostrad), Lieutenant General (retired) Prabowo Subianto. KOMNAS HAM prepared a 1,500-page report on the riots and stated that it planned to forward the report to the Attorney General's Office, in the hope that it would conduct an investigation of its own.

In Aceh province, many politically motivated acts of cruelty or punishment occurred during the year, including the burning of more than 603 school buildings since the start of the military operation on May 19; a majority were elementary schoolhouses. The Government attributed the arson attacks to GAM, which has a history of destroying public buildings, including schools, both as the most visible symbols of government presence and because security forces often used abandoned

government facilities as barracks or village headquarters. The GAM denied these allegations.

Occasionally Brimob personnel used arson as a form of punishment. The Government investigated the October 2002 burning of 80 shops and homes in Keude Seuneddon, North Aceh, an incident that occurred immediately after two Brimob officers were killed. Witnesses alleged that police burned the buildings intentionally as a form of revenge; however, in September, Police Commissioner Suryadarma claimed the fires resulted from the explosion of a stove at the market. He stated that this occurred at a time when Brimob members were at the site chasing rebels who had killed the two police officers. The case was under investigation at year's end.

The extremist Islam Defenders Front (FPI), which carried out a number of attacks on nightclubs in 2002 and in previous years, halted its operations in November 2002 following the arrest of the FPI leader Habib Rizieq. In February, the FPI restarted operations. Although the FPI held demonstrations and other actions during the year, including a recruitment drive for volunteers to fight the United States in Iraq and Afghanistan, it was not linked to any attacks on nightspots. Previous attacks were exercises in extortion and, to a lesser extent, punishment for businesses that allegedly tolerated or promoted vice. On August 11, the Central Jakarta District Court convicted Rizieq of organizing mob attacks in October 2002 and sentenced him to 7 months in prison. On September 28, approximately 150 members of the Betawi Brotherhood Forum (FBR), a group of criminals who claimed to be native Jakartans, raided a number of nightspots in the Jakarta areas of Cilincing and Muara Baru, saying the businesses were immoral and should close within a week. Police officers reportedly stood by as FBR members terrorized the nightspots. It was the FBR's first major attack since its March 2002 attack against members of the Urban Poor Consortium (UPC) at the Jakarta office of KOMNAS HAM. On June 27, self-described FBR members also forced the closure of a church in East Jakarta (see Section 2.c.).

Conditions at the country's 365 prisons and detention centers were harsh, and overcrowding was widespread. Facilities frequently were two or three times over capacity. Guards regularly extorted money and mistreated inmates. Unruly detainees were held in solitary confinement for up to 6 days on a rice-and-water diet. The wealthy or privileged had access to better treatment in prison. In July, the country's most famous inmate, Hutomo "Tommy Suharto" Mandala Putra, son of former President Suharto and convicted of arranging the killing of a judge, reportedly enjoyed the use of a special guest room to accommodate his many visitors. The air-conditioned room reportedly had a large TV set, an aquarium, and other amenities. Prison officials also granted special treatment to jailed Suharto crony Mohammed "Bob" Hasan, according to press reports.

Prison authorities housed female inmates separately from men, but in similar conditions. Most children convicted of serious crimes were sent to one of 13 juvenile prisons throughout the country. Until they were convicted, most juveniles were held with adults at detention centers. In theory, prisons held those convicted by courts, while detention centers housed those awaiting trial; however, in practice, pre-trial detainees were at times held with convicted prisoners. At the country's biggest prison, Cipinang in Jakarta, 1,537 of the 2,830 inmates were pre-trial detainees, rather than convicts.

There were no official restrictions on prison visits by human rights monitors; however, in practice, prison officials did not provide full access to outsiders and monitored information provided by inmates. The ICRC made some visits to prisoners during the year.

d. Arbitrary Arrest, Detention, or Exile.—The Criminal Procedures Code contains provisions against arbitrary arrest and detention but lacks adequate enforcement mechanisms, and authorities routinely violated it. The code provides prisoners with the right to notify their families promptly, and specifies that warrants must be produced during an arrest. Exceptions were allowed if, for example, a suspect is caught in the act of committing a crime. The law allows investigators to issue warrants; however, at times, authorities made arrests without warrants. No reliable statistics existed on how many arbitrary arrests and detentions took place during the year.

A defendant may challenge the legality of his arrest and detention in a pre-trial hearing and may sue for compensation if wrongfully detained; however, it was virtually impossible for detainees to invoke this procedure or to receive compensation after being released without charge. Military and civilian courts rarely accepted appeals based on claims of improper arrest and detention. The Criminal Procedures Code also limits periods of pre-trial detention. Police are permitted an initial 20-day detention, which can be extended to 60 days, and prosecutors may detain a suspect 30 days initially, with a 20-day extension permitted. Prosecutors may extend police

detention periods, and a district court may further extend prosecutors' detention of a suspect. The District and High Courts may detain a defendant up to 90 days during trial or appeal, while the Supreme Court may detain a defendant 110 days while considering an appeal. In addition, the code of criminal procedures allows detention periods to be extended up to an additional 60 days at each level if a defendant faces a possible prison sentence of 9 years or longer, or if the individual is certified to be mentally or physically disturbed. Authorities generally respected these limits in practice.

The country's police forces had a combined total of 250,000 officers, serving at the local, regional, and national levels. During the year, police generally improved their professionalism and capacity to deal with civil disorder, and succeeded in apprehending a large number of suspects in terrorist attacks. However, these improvements were not matched by an increased effectiveness at fighting crime, whether ordinary crime or crimes related to human rights. Impunity and corruption remained significant problems. The extent of wrongdoing within the nation's police forces was difficult to gauge. Police commonly extracted bribes, from minor payoffs in traffic cases to large bribes in criminal investigations. Jakarta Police Chief Inspector General Makbul Padmanagara did not deny or confirm media reports of blackmail and extortion among his officers. His deputy, Brigadier General Nanan Soekarna, said that, during the year, at least 379 officers were disciplined for misconduct, including 80 who were dismissed. The NGO Police Watch said the number of crimes committed by police officers increased during the year over 2002.

In areas of separatist conflict, such as Aceh and Papua, police frequently and arbitrarily detained persons without warrants, charges, or court proceedings. The authorities rarely granted bail. The authorities frequently prevented access to defense counsel during investigations and limited or prevented access to legal assistance from voluntary legal defense organizations. At least one person died in custody during the year (see Section 1.a.).

Human rights activists expressed concern over a number of controversial prosecutions, including that of prominent Acehese political activist Muhammad Nazar. On July 3, a Banda Aceh court operating in a province under martial law gave Nazar a 5-year sentence for "spreading hatred against the Government." Nazar was former chairman of SIRA, which had long campaigned for a referendum on Acehese independence. On February 12, police arrested him after he allegedly failed to notify the Government of a political rally held in the city of Lhokseumawe on January 9. Armed Forces chief Endriartono Sutarto defended the arrest, although the COHA between the Government and GAM rebels, which was in effect at that time, gave civil society the right to "express without hindrance their democratic rights." This was the second time Nazar was arrested for expressing his political views. In 2001, he served a 10-month sentence for "spreading hatred against the Government." His crime had been attending a campus rally and putting up banners critical of the TNI and supportive of Acehese independence. In another case, prosecutors in Aceh brought criminal charges against a young Acehese activist, Muhammad Rizal Falevi Al Kirani, for peacefully expressing his political views. Falevi, a university student and chairman of the Association of Anti-Militarism Activists (HANTAM), was charged with "inciting hatred and insulting the Indonesian Government." The charges stemmed from remarks Falevi made at a December 2002 political rally in Banda Aceh, at which he called for a referendum on the future status of the province. At the time of his arrest, police said Falevi lacked the proper permits for a public rally, but they later charged him with other offenses. In October, a Banda Aceh court convicted Falevi and sentenced him to 3 years in prison.

There was some controversy surrounding the Government's application of the terrorism decree passed in October 2002 and the ensuing anti-terrorism laws passed in March (which allow the use of evidence from wiretaps, video recordings, and other surveillance to be used in court) in the cases of at least five individuals associated with GAM. They included former negotiators Teuku Kamaruzzaman, Teuku Muhamad Usman, Amni bin Ahmad Marzuki, Sofyan Ibrahim Tiba, and Nasiruddin bin Achmed. On October 21 and 22, the Banda Aceh District Court convicted the five for acts of terrorism and sentenced them to between 12 and 15 years in prison. All five sentences were under appeal at year's end. Prosecutors argued that the defendants should have made concerted efforts to subdue the escalating violence and comply with the COHA, which GAM and the Government signed in 2002 in Geneva. Some human rights activists expressed concern that the terrorism decree was being misapplied to individuals who were not engaged in terrorism; others noted that the five were arrested on May 19, the day the Government declared martial law and launched its military offensive.

Also in Aceh, the Government freed two foreign women who were detained, convicted, and imprisoned in 2002 for violating the terms of their tourist visas. It re-

leased an American citizen on January 3, after 4 months in prison, and her colleague, a British citizen, on February 9, after a 5-month imprisonment.

On September 26, police in Jakarta arrested and briefly detained anti-corruption activist Azas Tigor Nainggolan. Tigor, chairman of the Jakarta Residents Forum (FAKTA), allegedly slandered Jakarta Governor Sutiyoso by claiming that he had bribed city councilors.

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

e. Denial of Fair Public Trial.—The Constitution provides for judicial independence; however, in practice, the judiciary remained subordinate to the executive and was often influenced by the military, business interests, and politicians outside of the legal system. The law requires that the Justice Ministry gradually transfer administrative and financial control over the judiciary to the Supreme Court by 2004, but the Ministry indicated during the year that this transfer would only begin in 2004. Judges were civil servants employed by the executive branch, which controlled their assignments, pay, and promotion. Low salaries encouraged corruption, and judges were subject to pressure from governmental authorities, which often influenced the outcome of cases.

Under the Supreme Court is a quadripartite judiciary of general, religious, military, and administrative courts. The law provides for the right of appeal, sequentially, from a district court to a High Court to the Supreme Court. The Supreme Court does not consider factual aspects of a case, but rather the lower court's application of the law. The judicial branch was theoretically equal to the executive and legislative branches and had the right of judicial review over laws passed by the DPR, as well as government regulations and presidential, ministerial, and gubernatorial decrees. In practice, the judiciary was less influential than the executive and legislative branches, and it was often heavily influenced by the executive branch. During the year, the budget for courts, as well as promotions and transfers for judges, was controlled by the Justice and Human Rights Department, but these functions were scheduled to be transferred to the Supreme Court in 2004.

In the country's 2,418 district courts, a panel of judges conducts trials by posing questions, hearing evidence, deciding on guilt or innocence, and assessing punishment. Judges rarely reversed initial judgments in the appeals process, although they sometimes lengthened or shortened sentences. Both the defense and prosecution can appeal verdicts.

The law presumes that defendants are innocent until proven guilty. It also permits bail, which was used in practice. Court officials commonly received an illicit payment in exchange for approving the security guarantee upon which the defendant's temporary release was based. Defendants have the right to confront witnesses and call witnesses in their defense. An exception is allowed in cases in which distance or expense is deemed excessive for transporting witnesses to court; in such cases, sworn affidavits may be introduced. Prosecutors were reluctant to plea bargain with defendants or witnesses or to grant witnesses immunity from prosecution. As a result, many witnesses were unwilling to testify, particularly against government officials. The courts often allowed forced confessions and limited the presentation of defense evidence. Defendants did not have the right to avoid self-incrimination, and some were compelled to testify against themselves.

The Criminal Procedures Code gives defendants the right to an attorney from the time of arrest and at every stage of examination. Persons summoned to testify in investigations do not have the right to legal assistance. The law requires counsel to be appointed in capital punishment cases and those involving a prison sentence of 15 years or more. In cases involving potential sentences of 5 years or more, the law requires the appointment of an attorney if the defendant is indigent and requests counsel. In theory, indigent defendants may obtain private legal assistance, but in practice few actually obtained the services of an attorney. In many cases, authorities quietly persuaded defendants not to hire an attorney. In many cases, procedural protections, including those against forced confessions, were inadequate to ensure a fair trial. On July 16, the head of the Association of Indonesian Lawyers (IPHI) met with the Vice President and the Minister of Justice and Human Rights and alleged that, in Aceh, the Government was depriving suspected GAM rebels of their right to an attorney. According to media reports, the Government was not providing defense attorneys to separatists on trial and actively hindered efforts by legal aid lawyers to join GAM-related cases.

Widespread corruption continued throughout the legal system. During the year, Transparency International reported that the country was among the world's most corrupt, and, in October, the World Bank stated that endemic corruption in the country was compromising law and order. Bribes influenced prosecution, conviction, and sentencing in countless civil and criminal cases. Most judges earned only \$200 to \$225 per month, while a judge with three decades' experience earned approxi-

mately \$660 per month. Key individuals in the justice system not only accepted bribes but appeared to turn a blind eye to other government offices suspected of corruption. During the year, the Supreme Audit Agency (BPK) repeatedly accused the Attorney General's Office (AGO) and National Police of not following up on cases of suspected corruption that had been referred to them. In September, BPK chairman Satrio B. Judono stated that, since 2001, the BPK had reported 6,162 cases of suspected corruption to the AGO and National Police, but that only 505 cases—approximately 8 percent—had been investigated by both offices. Judono estimated that state losses caused by the 6,162 cases could reach \$242 million. He added that the BPK had met with resistance from various ministries and state agencies where it had detected non-budgetary funds (those not listed on balance sheets).

In August, the *Legal Review* journal investigated the buying of verdicts in corporate civil lawsuits at district courts, high courts, and the Supreme Court. Based on information obtained from leaked corporate memos and other sources, the Review published a list that estimated the “price of victory” in a court case. Prices ranged from as little as \$8,300 at the Bandung District Court to as much as \$600,000 at the Supreme Court.

During the year, military courts prosecuted members of the armed forces, generally for common crimes. Apart from the handful of soldiers who were tried in human rights' courts, soldiers were always tried in military court, even for offenses that involved civilians or occurred when soldiers were not on duty. If a soldier was suspected of committing a crime, military police investigated and then passed their findings to military prosecutors, who decided whether or not to prepare a case. Military prosecutors, like military judges, were managed administratively by the TNI but were responsible to the Attorney General's office and the Supreme Court for the application of laws. Trials were conducted before a three-person panel of military judges. Appeals were made to the Military High Court; such appeals may question matters of fact or law. A Military Supreme Court based its rulings only on the application or interpretation of law. TNI convicts were held at prisons in the cities of Bandung, Medan, Makassar, and Surabaya. Each cell holds up to five persons. Some civilians complained about the brevity of prison sentences handed down by military courts. TNI legal officials responded that all troops sentenced to terms of 3 months or longer were discharged from the armed forces, regardless of their record or length of service, thus constituting a significant punishment.

Gross human rights violations can be adjudicated by four district courts. The law provides for each to have five members, including three non-career human rights judges, who were appointed to 5-year terms. Verdicts could be appealed to the standing High Court and the Supreme Court. The law provides for internationally recognized definitions of genocide, crimes against humanity, and command responsibility, but it does not include war crimes as a gross violation of human rights.

On August 5, the ad hoc human rights tribunal for East Timor concluded its trial phase in Jakarta with the conviction of Major General Adam Damiri of crimes against humanity. Damiri, who remained free on appeal, became the sixth of 18 Tribunal defendants convicted in connection with atrocities that occurred during April 1999 and September 1999 in 3 East Timor locations: Liquica, Dili, and Suai. The tribunal was convened in March 2002 although, according to even a broad interpretation of the human rights tribunal law, the Attorney General should have commenced prosecution in February 2001. The Government's failure to meet statutory deadlines in preparing cases for the tribunal represented a major procedural violation that could provide grounds to overturn any convictions on appeal.

During the year, the East Timor ad hoc human rights tribunal concluded the last four of 18 trials. Judges convicted former Dili police chief Hulman Gultom on January 20 (sentenced him to 3 years in prison), Army Brigadier General Noer Muis on March 12 (5 years) and Damiri, the highest-ranking defendant, on August 5 (3 years). These convictions followed the 2002 convictions of former Aitarak militia leader Eurico Guterres (10 years), former East Timor Governor Abilio Soares (3 years), and Army Lieutenant Colonel Soedjarwo (5 years). The court convicted Gultom for failing to control his subordinates in connection with the April 1999 massacre at the Dili home of pro-independence leader Manuel Viegas Carrascalao, and for failing to prevent similar violence at the workplace and residence of Bishop Carlos Ximenes Belo in September 1999. Noer Muis was convicted for failing “to prevent acts of omission by his subordinates, with the result that crimes against humanity occurred in the forms of murder and persecution” in Suai and Dili, according to the judgment. Judges ruled that Damiri, as commander of the military area that included East Timor, failed to take steps to avert a massacre when pro-integration militiamen went on a post-referendum rampage.

Although the human rights tribunal law stipulates 10-year minimum terms of imprisonment for the charges against the defendants, all but one of the six sentences

handed down by judges were for shorter periods. In the case of Noer Muis, judges acknowledged that the 5-year sentence fell short of the minimum for crimes against humanity, but cited mitigating factors. Human rights activists criticized the sentences as incommensurate with the crimes. All six of those convicted remained free at year's end pending appeal. The law allows not only appeals of convictions, but prosecutorial appeals of acquittals, and there were indications that prosecutors were appealing many of the 12 acquittals to the Supreme Court.

The trials featured weak indictments and sub-standard work by prosecutors, who were hampered by severe time and geographical restrictions placed on the tribunal's jurisdiction. Most prosecutors built their case around the defendants' "failure to act," rather than their role in organizing or perpetrating atrocities, as strongly suggested by evidence gathered and offered by the U.N.'s Serious Crimes Unit (SCU) in Dili. The prosecutors' failure to fully use the resources and evidence available to them called into question the overall credibility of the Tribunal, as did their decision to call few East Timorese witnesses. Most of the witnesses called were themselves either defendants in other Tribunal cases or were individuals with a stake in supporting the defendants. Former president Habibie on March 21 testified that the U.N. was responsible for the unrest because it did not give the country enough time to prepare troops for the announcement of the result of East Timor's referendum in 1999. Meanwhile, defense attorneys and even judges sometimes badgered or otherwise mistreated witnesses, creating a climate of intimidation in the courtrooms. Uniformed soldiers armed with bayonets packed the gallery during many of the trials. Amnesty International reported that the Tribunal proceedings were "not honest, truthful, or fair." Human Rights Watch (HRW) called the trials a sham, proving that there was no interest in holding senior TNI officials accountable for their actions. A Government spokesman in April acknowledged "shortcomings" in the trials, but stated that these were due to technical deficiencies, rather than a deliberate miscarriage of justice.

On September 15, the ad hoc human rights tribunal for the 1984 Tanjung Priok incident held its first court session in Jakarta. Four 5-judge panels consisting of career and ad-hoc judges began to hear four cases: One against 11 soldiers, and the other 3 against 3 high-ranking active or former military officers, retired Major General Pranowo, Army Major General (retired) Rudolf Adolf Butar-Butar, and Army Major General Sriyanto Mutrasan, the commander of Kopassus. All of the defendants faced charges of crimes against humanity in connection with the 1984 mass shooting that occurred near the Jakarta port of Tanjung Priok and left at least dozens, and possibly hundreds, dead. The killings occurred when 11 soldiers opened fire on a large group of Muslim demonstrators who were marching toward the District Military Command and demanding the release of several detained colleagues. At the opening of Sriyanto's trial, soldiers stood shoulder to shoulder at the doors to the courtroom and prevented some observers, including journalists and foreign diplomats, from attending the session. Following the same session, some Tanjung Priok victims reported that they had received death threats from soldiers at the courthouse. Some of the defense teams argued that charges of crimes against humanity were unfairly being applied retroactively to their clients. The tribunal generated considerable domestic interest as the first human rights court to hear a case involving crimes against humanity committed during Suharto's rule.

A number of high-profile trials held during the year produced complaints that justice had not been served. On September 2 in Jakarta, the conviction of suspected JI leader Abu Bakar Ba'asyir on a treason charge disappointed both his supporters and his critics. The latter were upset that Ba'asyir was not convicted on the primary charge of planning treason and stated that his sentence of 4 years was not adequate for the crime. Judges ruled that he had taken part in a plot to overthrow the Government, but noted that it was not proved that he was the leader of this plot or that he headed JI, which was blamed for such terrorist attacks as the church bombings of Christmas Eve 2000. Ba'asyir was also convicted on two of three immigration-related charges. Both Ba'asyir and the Government subsequently appealed the district court's decision. In November, the Jakarta High Court overturned Ba'asyir's conviction for taking part in a plot to overthrow the Government, but upheld his conviction on immigration charges. Judges said Ba'asyir's involvement in JI and his blessing of various bombings, including the October 2002 Bali bombings, were acts of terrorism, not treason. Both Ba'asyir and the Government appealed to the Supreme Court, and both appeals were pending at year's end.

In Central Sulawesi, the June 16 conviction for weapons possession of Rev. Rinaldy Damanik, a leader of the province's Christian community, was criticized. Police arrested Damanik after a vehicle in which he was riding was stopped and found to contain 14 firearms and ammunition. A Palu court sentenced him to 3 years in prison. Some of Damanik's supporters argued that he had been entrapped;

others claimed he was being persecuted for being a Christian who spoke out on behalf of his community. Others complained that Muslims involved in similar offenses in Central Sulawesi had yet to be prosecuted. Legal experts said Damanik had hurt his legal defense by refusing to show up for a number of court sessions. In a separate case, on January 30, the East Jakarta District Court acquitted Jafar Umar Thalib, former leader of the Islamic militia Laskar Jihad, of inciting religious violence and other charges. The verdict was criticized by human rights activists and Christian community leaders, who noted that Laskar Jihad was responsible for the deaths of large numbers of Maluku Christians. Two days earlier, a North Jakarta District Court had sentenced in absentia Maluku Sovereignty Front (FKM) leader Alex Manuputty, a Christian, separatist and supporter of the South Maluku Republic movement, to 3 years in prison for plotting a rebellion in the Malukus. Manuputty appealed his conviction to the High Court and then to the Supreme Court, which upheld his conviction on December 16. Manuputty was a fugitive from justice at year's end.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The law requires judicial warrants for searches except for cases involving subversion, economic crimes, and corruption. The law also provides for searches without warrants when circumstances are “urgent and compelling.” Security officials occasionally broke into homes and offices. The authorities generally did not monitor private communications, but they occasionally spied on individuals and their residences and listened in on telephone calls. There were reports that the Government occasionally infringed upon privacy rights of migrant workers returning from abroad, particularly women. Corrupt officials sometimes subjected migrants to arbitrary strip searches, stole their valuables, and extracted bribes at special lanes set aside at airports for returning workers.

Land disputes generated charges of unfair evictions and excessive force by the public security officials. FAKTA estimated that public security officials evicted at least 40,000 persons during the year, compared with 20,000 in 2002. On July 18, police in Bondowoso, East Java, who were enforcing a court order in a land-dispute case, fired a rubber bullet and killed the daughter of the losing party in the court battle. Four officers reportedly were injured in the incident and 31 persons were arrested. On August 26, public security officers in Tambora, West Jakarta brutally evicted approximately 10,000 squatters from privately owned land. FAKTA and the Urban Poor Consortium (UPC) argued that the evictors acted as defacto mercenaries on behalf of PT Cakra Wira Bumi Mandala, the company that owned the land and planned to resume building a business complex there. On September 17, a separate mass eviction occurred in Cengkareng, West Java, where security officers forcibly evicted thousands of residents from land owned by a state-owned company. One week later, a person died of injuries sustained in the eviction. According to the victim's brother, the man's kidney was punctured by a broken rib resulting from a struggle with Brimob officers and West Jakarta security personnel. A 15-year-old female evictee was believed to have been sexually assaulted by security officials immediately after the raid (see Section 5).

On January 15 in the Central Java village of Darmakradenan, approximately 2,000 farmers disappointed with a court decision occupied state land that they argued was stolen from them by the military in 1965. Shortly thereafter, a large number of Brimob officers and soldiers ousted the farmers, and injured 31 persons. The Indonesian Farmers Movement Network (JGPI) reported that canes, boots, rifle stocks, and rubber bullets were used in the clash, which allegedly continued in a residential area even after the farmers had fled the occupation site. On August 21, farmers from the West Java regency of Garut met with officials of KOMNAS HAM and alleged systematic violence by the security forces. The farmers, supported by the West Java Farmers Union and the Indonesian Forum for the Environment (WALHI), reported that this violence had occurred in mid-August when security forces apprehended 54 farmers who had been cultivating land owned by a state-owned forestry company. They added that the security forces had burned the homes of at least 39 farmers and seized tools and other property. In Sumatra, local communities involved in the pulp and paper industry reportedly were experiencing persistent human rights abuses, including land seizures, by police and corporate security guards. HRW also alleged that companies such as Arara Abadi routinely seized local residents' land for plantations, with little or no compensation.

Human rights activists viewed the national identity card (KTP) system as a form of government interference in the privacy of citizens. The KTPs, which all citizens are required to carry, identify the holder's religion. NGOs charged that the KTPs undermined the country's secular tradition and endangered cardholders who traveled through an area of inter-religious conflict. Members of the five religions officially recognized by the Government—Islam, Protestantism, Catholicism, Hinduism

and Buddhism—had little or no trouble obtaining accurate identification cards during the year; however, members of minority religions frequently were denied a card, or denied one that accurately reflected their faith.

Looting was a problem in areas of Aceh province where the security forces had forced residents to move to refugee camps. In July, hundreds of residents of the Bireuen village of Juli Keude Dua and 10 neighboring communities returned home to find that their houses and shops had been looted. Televisions, radios, cassette players, and refrigerators were among the missing items.

In many parts of the archipelago, particularly in Kalimantan and Papua, local residents believed that the government-sponsored transmigration program interfered with their traditional ways of life, land usage, and economic opportunities. During the year, the program moved at least 89,097 households from overpopulated areas to a total of 351 more isolated and less developed areas. The Government sent at least 12,136 households to Central Kalimantan, making that province again the top destination.

In Central and Western Kalimantan, NGOs accused the Government of not adequately addressing the issue of assets lost by ethnic Madurese following inter-ethnic violence in 2001.

The Government used its authority, and at times intimidation, to appropriate land for development projects, particularly in areas claimed by local persons, and often without fair compensation. In other cases, state-owned companies were accused of endangering resources upon which citizens' livelihood depended. On March 17 at Singkarak Lake in West Sumatra province, approximately 1,400 fishermen reportedly threatened to cut off the water supply to a hydropower plant operated by the State Electricity Company (PLN), alleging that its operations had depleted the lake's fish population.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and freedom of the press; however, the Government at times restricted these rights in practice. During the year, the Government jailed at least five peaceful anti-government protestors convicted of “insulting the President” or “spreading hatred against the Government.” In addition, politicians and powerful businessmen showed greater willingness to file criminal or civil complaints against journalists whose work they found insulting or offensive, and this trend undermined press freedom. Also during the year, journalists faced increasing threats or violence.

In January, after protests that followed a Government announcement of price increases, the President, police, and Cabinet ministers all spoke out against protestors who insulted “state symbols.” By July, the Government had in the preceding 24-month period prosecuted 25 protestors who had peacefully expressed their political views. On April 28, the Yogyakarta District Court found Ignatius Mahendra Kusuma Wardana and Yoyok Edo Widodok guilty of burning a photo of the President and Vice President at a January rally and sentenced them to 3 years in prison. On June 16, a Jakarta court sentenced Iqbal Siregar of the Islamic Youth Movement (GPI) to 5 months in prison for insulting the President at an anti-government protest in front of the State Palace. Siregar had carried a poster featuring the President with tape covering her eyes and had also started a chant: “This is the President who has disappointed the people.” NGOs such as HRW, Amnesty International, and Kontras criticized the Government's prosecution of peaceful protestors.

In Aceh province, press freedom deteriorated during the year. Martial law administrators took various steps to limit information coming out of Aceh, including restricting access of foreign journalists and diplomats, blocking cellular telephones, and forbidding contact with GAM. Journalists in Aceh experienced serious difficulties operating under martial law. The Government issued a decree that required each news coverage activity to “be supported by written permission by the head of Aceh's Emergency Military Authority.” However, enforcement of the decree was erratic. In practice, only foreign journalists and local journalists reporting for foreign news organizations required special permits from the martial law administrator. The administration did not directly censor reporters' stories, but many local journalists felt intimidated by public criticism from army spokesmen about specific stories, as well as by passionate statements from military commanders urging journalists to report “patriotically.” Journalists also expressed concern that critical reporting of TNI operations could cause them to lose access to military press briefings. Finally, the uncertain security situation in many parts of the province limited access to many areas. In the early weeks of the operation, the TNI operated a program of “embedding” journalists with military patrols. Many journalists who worked in Aceh—both embedded and independent—indicated they felt threatened by both GAM and the TNI in reporting on events. The military terminated the embedding

program after 1 month. Some journalists complained that pressure by the TNI on their Jakarta-based editors also limited negative reporting of the conflict. For example, in late May, the Surya Citra Television network (SCTV) fired reporter/producer Dandhy Dwi Laksono after the network aired Laksono's interview with an Acehese man who said he had been tortured by soldiers. Laksono told a media watchdog group that the TNI took offense at the report and that this prompted his dismissal.

Journalists faced violence and intimidation from police, soldiers, government officials, rebels, thugs, students, and ordinary citizens. During the year, the Alliance of Independent Journalists (AJI) recorded at least 36 physical attacks against journalists as well as 24 non-physical acts that included death threats and lawsuits. For example, on February 26 in the West Java city of Bandung, police assaulted five journalists who were covering a student protest outside the provincial assembly building (DPRD). Dedi Sudandi of the daily *Pikiran Rakyat* was preparing to photograph a policeman who was beating a student when Sudandi was dragged into a crowd of policemen and pummeled. Police intentionally fired a water cannon at the other four journalists and damaged their television equipment. On August 23, approximately 30 unidentified youths ransacked the Maluku Media Center in Ambon, injuring a number of persons and destroying furniture. Police later arrested nine persons and said the attack was not news related but linked to an earlier dispute that occurred near the center.

There were many violent attacks against journalists in Aceh. For example, on June 19, the corpse of TVRI cameraman Jamaluddin was found near Banda Aceh with his hands tied, mouth sealed, and head covered with a plastic bag (see Section 1.a.); however, evidence suggested that the killing may have been unrelated to his press activities. On July 20 in the North Aceh community of Krueng Keukeuh, unknown gunmen opened fire on the home of Waspada newspaper journalist Idrus Jeumpa, killing Jeumpa's wife and injuring him and his two children. In early July in the South Aceh village of Panton Luas, five soldiers allegedly beat brutally 68H radio journalist Alif Imam Nurlambang. On June 29, the GAM abducted journalists Ersa Siregar and Fery Santoso, along with the wives of two Air Force officers (see Section 1.b.). The GAM's commander in East Aceh, Ishak Daud, defended the abductions by saying that TNI intelligence officers frequently used vehicles marked "press," an assertion confirmed by journalists.

Expulsion was occasionally used against journalists. For example, on June 24, Aceh military authorities forced Korean reporter Jeong Moon Tae and Indonesian Reuters photographer Tarmidzi Harva to leave the province.

On March 8, persons linked to well-connected tycoon Tomy Winata appeared at Tempo Magazine's headquarters in Jakarta and criticized an article that implied Winata stood to benefit from a mysterious fire that destroyed a Jakarta market. They assaulted Tempo journalists, including Chief Editor Bambang Harymurti, both at the headquarters and later at a police station. Tempo lawyers reported the matter to the authorities and sued the assailants, but judges exonerated the group's leader. Winata's attorneys responded by initiating four new lawsuits (two civil and two criminal), actions that free press activists asserted were attempts to intimidate media companies into silence. On September 29, a judge in one of the four suits impounded the home of one of the defendants, Tempo columnist Goenawan Mohamad. The seizure warrant was issued after the impoundment occurred. A separate panel of judges called the action "erroneous," but declined to reverse the court order. On October 6, a Jakarta court ruled in favor of AJI in a civil suit against the police, who failed to act to protect journalists during the March 8 Tempo attack.

Government leaders and politicians showed greater willingness to use legal action against journalists for defamation claims. In September, Jakarta prosecutors demanded a 1-year sentence for *Rakyat Merdeka* daily editor Soepratman, who was charged with defaming President Megawati by publishing four defamatory headlines, such as: "Mega's Mouth Reeks of Diesel Fuel." On October 22, Soepratman was acquitted of slander; however, he was convicted of spreading hatred against the Government and given a 6-month suspended sentence. On September 9, a Jakarta court delivered a suspended 5-month sentence to another *Rakyat Merdeka* editor, Karim Papatungan, for a front-page political cartoon that showed an unflattering portrayal of Akbar Tandjung, the Golkar Party chairman and DPR Speaker who was convicted in 2002 of embezzling \$4.5 million in state funds intended for public food assistance.

The Government did not initiate legal action against any person responsible for crimes committed against journalists in 2002. However, following a lawsuit filed by AJI, the Central Jakarta District Court on January 27 ordered Jakarta Governor Sutedjo to apologize to a reporter who had been intimidated by a city public order officer. The journalist, Edi Hariyadi, was reporting on an eviction in March 2002 when the officer, Dapot Manihuruk, tried to prevent him from covering the story.

Hariyadi later experienced repeated acts of intimidation. Sutiyo's lawyers appealed the decision to the High Court and the case was under consideration at year's end. In a separate case, the Government did not make any arrests in connection with the June 2002 police beating of journalist Wisnu Dewabrata. According to Media Watch, Kompas sued the police force but then, fearing difficulties with the police, withdrew the suit. Police then allegedly sent an apology to Dewabrata.

Pervasive corruption undermined journalism, as did the lack of an enforceable journalistic code of ethics. According to an international survey published in September, the country was among the three countries where journalists were most likely to compromise their integrity by taking bribes.

During the year, the Government began implementing the Broadcasting Law that was passed in November 2002, including issuing frequency licenses and forming what appeared to be a fair broadcasting commission; however, since the law was still under judicial review for conformity with the Constitution, it was not fully implemented by year's end. Some critics argued that the law could permit censorship.

Despite numerous incidents of violence and intimidation of the press, there were some positive developments. Unity among journalists and their commitment to protect their colleagues appeared to have strengthened. Some members of the press also continued their aggressive reporting on such issues as corruption, Aceh, and environmental degradation. As decentralization proceeded, regional media increasingly prospered. In addition, moderate Islamic publications increased in number and popularity; some observers characterized the publications as the voice of the "silent majority." Panjimas magazine reinvented itself to present moderate views more aggressively, and the women's magazine Noor tried to promote a modern Islamic female lifestyle. Editors of both magazines said they were consciously responding to radical publications such as Sabili magazine, which they asserted did not reflect the majority Muslim view of the world.

A Government-supervised Film Censorship Institute continued to censor domestic and imported movies for content that is pornographic or deemed religiously offensive. By law, Communist teachings cannot be disseminated or developed. Although no mainstream books were banned during the year, Central Java Police Chief Didi Widayadi announced on September 19 that the provincial government had banned publications that describe methods for carrying out acts of terrorism or holy war.

The Government did not restrict Internet usage or content.

The law provides for academic freedom, and the Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly; however, the Government restricted this right in certain areas. The law requires that persons planning to hold a demonstration notify police 3 days in advance and appoint someone accountable for every 100 demonstrators. The law generally does not require permits for public social, cultural, or religious gatherings; however, any gathering of five or more persons related to political, labor, or public policy required police notification (see Section 6.a.).

Police used excessive force at a number of demonstrations during the year (see Section 1.c.). For example, on February 26 in Bandung, West Java, police forcibly dispersed a demonstration outside a government building and many students reportedly sustained head injuries. Journalists were also injured (see Section 2.a.).

In Aceh, the security forces interfered with or shut down a number of public rallies, ostensibly for a lack of proper permits. For example, on January 9, police physically prevented thousands of civilians from attending a rally demanding the withdrawal of the security forces from the province. At one point, Brimob officers fired warning shots; four demonstrators were injured, two seriously. Although the shootings appeared to be accidental, police later charged two speakers at the rally with "spreading hatred." One of those charged, Muhammad Nazar, was convicted and sentenced to 5 years' imprisonment (see Section 4). The other, Kautsar, fled prosecution and remained at large at year's end.

On some occasions, counter-protestors violated the right to peaceful assembly. For example, on March 20 in Malang, East Java, members of an Indonesian Democratic Party of Struggle (PDI-P) youth group attacked students from various universities who were calling on the President and Vice President to resign. The violence resulted in 31 injuries, 6 of them serious.

The Government did not report any progress in prosecuting those responsible for the September 2002 forcible dispersal by Jakarta police of participants in a massive rally against the reelection of Governor Sutiyo. Similarly, no arrests were made in connection with the distribution of food containing cyanide at the same rally. In addition, no arrests were made over the May 2002 attack in the Central Java city of Semarang on two anti-poverty activists by persons who claimed to be members of the ruling PDI-P.

The Constitution provides for freedom of association; however, the Government restricted the exercise of this right. Although the Papua Special Autonomy Law permits the flying of a flag symbolizing Papua's cultural identity, the police prohibited the flying of the Papuan Morning Star flag. There were unconfirmed reports that on July 7 in Wamena, police shot and killed one person, whose name was not released, for attempting to raise the Morning Star flag in front of a government office. In related incidents, police removed such flags at numerous locations and continued their crackdown against Papuan nationalist T-shirts, stickers, bracelets, and other items they felt were associated with the separatist movement. In September, police reportedly carried out a "sweep" for such accessories in the Central Papuan Highlands city of Wamena.

The security forces continued to enforce a prohibition on the flying of the GAM flag. In July, Aceh's Governor instructed all Acehnese to fly the Indonesian national flag from July 8 to September 1, and residents who displayed a worn or tattered one were reportedly ordered to buy a new one. The flying of the red-and-white national flag was seen as a test of their loyalty to the state and their rejection of the separatist movement. On May 21, 37 homes in the Bireuen subdistrict of Peusangan were reportedly burned for not displaying the national flag. Some human rights activists accused the Government of forcing civilians to take part in patriotic mass rallies, such as the June 17 event in Banda Aceh, in which 10,000 young persons declared their loyalty to the unitary state of Indonesia. Similar rallies were held in Aceh Besar, Pidie, Bireuen, North Aceh, and East Aceh.

c. Freedom of Religion.—The Constitution provides for "all persons the right to worship according to his or her own religion or belief," and states that "the nation is based upon belief in one supreme God." The Government generally respected the former provision, but only five major faiths—Islam, Protestantism, Catholicism, Hinduism and Buddhism—received official recognition in the form of representation at the Ministry of Religious Affairs. Other religious groups were able to register with the Government, but only with the Ministry of Home Affairs, and only as social organizations. These groups experienced official and social discrimination. By stipulating that the country is based on belief in one God, the Government does not recognize atheism.

Following a sharp drop in violence between Christians and Muslims in the provinces of Maluku, North Maluku, and Central Sulawesi, inter-religious tolerance and cooperation improved during the year. During the first 6 months of the year, many Muslims and Christians in those provinces worked together to repair mosques and churches. In the Malukus, local governments reunited many government offices that since 1999 had separated into Christian and Muslim units. In Bali, where some feared that the October 2002 bombings would strain relations between Hindus and Muslims, no confrontations were reported during the year. As in previous years, some political parties advocated amending the Constitution to adopt Islamic law (Shari'a) on a nationwide basis, but most Parliamentarians and the country's largest Muslim social organizations remained opposed to the idea.

During the year, at least 7 churches were attacked; in 2002 attackers destroyed or forcibly closed 20 churches. Attacks occurred in the West Java communities of Haur Ngomong, Melayu Barat, and Cilaku; the Jakarta communities of Pondok Bambu and Kemayoran; the Central Java village of Modalan; and the North Sumatra village of Bandar Selamat Asahan. Approximately half of these attacks involved arson committed by unidentified persons, while others featured forced closures, either by mobs or by the authorities. No attacks on mosques occurred during the year. This marked an improvement from 2002, when at least two mosques were attacked. On March 13, a homemade bomb was found on the roof of Ambon's Al-Fatah mosque, but it did not explode and it was believed been there for a long period. The Government did not report progress in prosecuting those responsible for the September 2002 mob attack on a mosque, homes, and shops belonging to the Ahmadiyah community in the East Lombok town of Selong; however, the ICG reported that the attack—and another attack the same month on a Lombok mosque belonging to the Institute for the Proselytization of Islam in Indonesia (LDII)—came after district government chiefs issued decrees that said the two sects were not officially sanctioned. It was unclear what, if any, government investigation followed the July 2002 attack on a mosque in the predominantly Catholic town of Maumere and the September 2002 attack on an LDII mosque in Bima.

The civil registration system continued to discriminate against members of minority religions. Civil Registry officials refused to register the marriages or the births of children of Animists, Confucians, members of the Baha'i faith, and others because they did not belong to one of the five officially recognized faiths. Hindus, despite official recognition of their religion, sometimes had to travel far to register marriages or births, because in many rural areas the local government could not or

would not perform the registration. Persons whose religion was not one of the five officially recognized faiths, as well as persons of Chinese descent, had difficulty in obtaining a KTP, which was necessary to register marriages, births, and divorces. On April 9, followers of the indigenous belief system “kepercayaan” met with commissioners of KOMNAS HAM in Jakarta and complained about official discrimination, most notably in the area of civil registration. The 100-member delegation from the Cigugur Adat (traditional) community, based in West Java, reported that they could not get births or marriages registered, and that their children were disadvantaged at schools because they did not belong to one of the five officially recognized religions. The visitors also expressed concern about a movie titled “Infidel” which was popular at the time. They asserted that its depiction of the late Cigugur founder, Pangeran Madrais, as a witch doctor was harshly offensive and that he was in fact a holy man who had brought people together.

Men and women of different religions experienced difficulties both in getting married and registering the marriage. The Government refused to register any marriage before a religious marriage ceremony had taken place. However, very few religious officials were willing to take part in any wedding involving a man and woman of different faiths. For this reason, some soon-to-be brides and grooms converted to their partner’s religion, sometimes superficially, in order to be married. Others resorted to traveling overseas to wed.

During the year, religious instruction sparked intense public debate. Such instruction is required for students at elementary and secondary public schools. On June 11, the DPR passed a controversial Education Bill that drew in part on “faith and piety” language newly included in the Constitution. Muslims largely supported the law, while Christians generally rejected it. It states, among other things, that each student has the right to receive religious instruction by a teacher of the same faith. Because few non-Muslims attended Muslim schools, such schools would likely be unaffected by the law, and thus not required to hire non-Muslim teachers, create a program for a (non-Muslim) religion class, or create a space for worship by Christian or other students. However, many Catholic and Protestant churches, church groups, and schools viewed the law as state intervention into private religious affairs. They expressed concern that high-quality Christian schools which attract many Muslim students would be forced to hire Muslim teachers, create a program for an Islam class, and set up a mushollah (prayer room). Muslim supporters argued that the nation’s moral decay required swift action to instill ethics and morality in its youth. Other Muslims said the law was aimed at assuring Muslim parents that their children could receive a high-quality Catholic school education and still receive Islamic guidance. Many Muslim intellectuals opposed the law, saying it was too steeped in religion and that education should be based on enlightenment, rather than piety. Political observers saw the bill’s passage as politics in preparation for 2004 elections. By year’s end, the Government had not taken any concrete steps to implement the bill’s provisions.

On March 3 in Aceh province, the Government began the implementation of Shari’a by issuing a presidential decree establishing Islamic law courts in that province. There was no evidence that suggested that Shari’a was being applied to non-Muslims in Aceh. Some in Aceh worried that implementation of Shari’a would provide new powers to already-discredited law enforcement institutions and provide opportunities to intrude on private religious matters, such as whether an individual attends Friday prayers. At year’s end, such concerns thus far appeared unfounded. Women’s groups played an active role in helping draft local regulations in order to avoid provisions that might restrict women’s rights.

In some municipalities, local leaders applied stricter Islamic practices during the year. For example, in the West Java regency of Cianjur, a local regulation required all government workers to wear Islamic clothing every Friday. Virtually all women complied with the regulation, and women’s groups including Women’s Solidarity (Solidaritas Perempuan) said the women were afraid to not comply. Some residents alleged that the authorities were meddling in private affairs. In some areas, Islamization campaigns that began in 2002 seemed to lose momentum during the year. In the Madura regency of Pamekasan, the regent had set up a “local Shari’a” implementation committee and promulgated a decree calling for Muslim attire for civil servants and for public and work activities to cease during the call to prayer. During the year, the committee set less ambitious goals such as that persons should obey the rules of the road and not build food and drink stalls on sidewalks and medians.

The Human Rights Law allows conversions between faiths, but converts to minority religions sometimes felt reluctant to publicize their conversions because they feared discrimination.

As in previous years, during the Muslim fasting month of Ramadan, many local governments ordered either the closure or limited operating hours of various types of “entertainment” establishments. The Jakarta decree ordered the month-long closure of non-hotel bars, discos, nightclubs, sauna spas, massage parlors, and venues for live music. However, billiard parlors, karaoke joints, and hotel bars and discos were permitted to operate for up to 4 hours per night. Some members of minority faiths, as well as some Muslims, felt that these orders infringed on their rights. However, enforcement of the orders varied.

Foreign missionaries who obtained visas were generally allowed to work without serious restriction.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution allows the Government to prevent persons from entering or leaving the country, and sometimes the Government restricted freedom of movement. The Law on Overcoming Dangerous Situations gives the military broad powers in a declared state of emergency, including the power to limit land, air, and sea traffic; however, the Government did not use these powers.

The Government restricted freedom of movement through a system of “travel letters,” which were required for travel within Maluku, Aceh, and Papua. Enforcement was inconsistent. In parts of Papua, officials required a travel letter for a resident to walk from one village to another. The system promoted police graft and the monitoring of citizens’ activities.

On May 18, President Megawati issued a decree establishing martial law in Aceh province for an initial period of 6 months. On November 19, the Government extended martial law for 6 months. The decrees name the President as the central martial law administrator and appointed Aceh Regional Military commander, Major General Endang Suwarya, as regional martial law administrator. The decrees give the regional martial law administrator overall government authority for the province and power to issue emergency measures to control travel, trade, transport, and other civilian activities. The basis for the decree is a 1959 “Government Regulation with the Force of Law” on National Emergencies. Human rights activists called the President’s decrees vague and stated that, by drawing their authority from a 44-year-old law, the decrees do not explicitly recognize subsequent human rights legislation or the rights of non-combatants in a conflict area.

The Government restricted some residents’ movements through the issuance of new national identity cards. These cards required the signatures of the holder’s local military commander, local police chief, and village head. Acehnese who wished to travel or leave the province had to produce these cards at security checkpoints along main highways. Failure to produce the card was cause for arrest. In practice, the cards were easily obtained.

The Government also restricted movements in order to close avenues of supply to GAM rebels. In the remote Lokop district of East Aceh, home to 30 villages and a heavy rebel presence, TNI units monitored and controlled food shipments moving in and out of villages and limited shipments to TNI-linked suppliers. Soldiers also limited the amount of food each family could purchase, and this resulted in malnutrition, according to the Aceh branch of Kontras. In addition, troops reportedly restricted the hours that fishermen could fish, and the hours that rice farmers could work their fields.

In Central Kalimantan, where inter-ethnic violence in 2001 prompted approximately 130,000 ethnic Madurese migrants to leave, mainly to Madura and East Java, at least 13,000 ethnic Madurese returned to Central Kalimantan between March and the end of the year. However, in the interim, a number of regency governments, including those of Barito Utara, Barito Selatan, and Kotawaringin Barat, had introduced regulations that prohibited the return of ethnic Madurese unless they could prove they had previously lived in the area for a certain length of time—such as 10 years—and did not have a criminal record. Several minor incidents of ethnic violence occurred during the year. Relations between Madurese and Dayaks remained poor. The West Kalimantan city of Sambas remained effectively inaccessible for its former Madurese residents.

In September, the Government lifted a 3-year state of emergency in the Malukus and ended a dusk-to-dawn curfew. The Government also ceased requiring foreigners to obtain a special permit to visit the Malukus.

The Government prevented at least 282 persons from leaving the country during the year and at least 4,000 persons from entering. The Attorney General’s Office and the High Prosecutor’s office prevented most of these departures and entries. Some of those barred from leaving were delinquent taxpayers, while others were involved in legal disputes.

The country continued to make dramatic progress in lowering its IDP population. In June, the U.N. Office for the Coordination of Humanitarian Affairs (OCHA) estimated that there were 587,000 IDPs in the country. This was down sharply from the 1,413,708 cited in 2002 by the World Food Program. Thousands of IDPs returned home due to the sharp reduction in communal violence in the provinces of Maluku, North Maluku, and Central Sulawesi. In May, according to OCHA, the areas with the highest numbers of IDPs were Maluku (232,000), Madura (125,000), and North Sumatra (122,000). The Government's military operation in Aceh did not produce a large flow of IDPs outside the borders of the province. Some of the country's IDPs lived in emergency shelters while others stayed with host families or were integrated into local communities. The Government dealt with many aspects of crisis but continued to rely on international organizations and donors to assist with most IDPs' needs. In theory, each IDP had a right to three options: they could return to their place of origin, start anew in their current location with the Government's assistance, or resettle through a relocation program. In some cases, including in North Sumatra, governmental assistance amounted to a one-time payment of approximately \$1,000 per family. However, the Government was not able to reach all IDPs, and, of those reached, the Government did not offer all such options. On June 30 on the North Maluku island of Ternate, thousands of IDPs who claimed that the Governor had stolen aid earmarked for their return to Halmahera island clashed with hundreds of police and soldiers. No injuries were reported. NGO activists who worked with IDPs reported that in conflict areas, the Government was doing little or nothing to see that compensation was provided for losses suffered or that justice was served for those responsible. Activists reported that IDPs were vulnerable to trafficking in persons, and others warned that widespread violence could re-ignite at any time in some regions.

Although the law does not include provisions for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, there were no reports of the forced return of persons to a country where they feared persecution. The Government cooperated with the U.N. High Commissioner on Refugees (UNHCR), which maintained an office in Jakarta. At year's end, there were 233 U.N.-recognized refugees and 68 asylum seekers living in the country. Some were applicants and others were dependents. Most were from Iraq, Afghanistan, or Iran. Some of the refugees had been accepted by Western resettlement countries but had not yet departed.

The above figures did not include approximately 28,000 former refugees from East Timor who resided in West Timor at year's end. The Government and UNHCR stated that at year's end, the remaining East Timorese in West Timor would no longer be considered refugees. Most of these former refugees resided in makeshift camps in the West Timor regencies of Atambua and Kupang. Many of these individuals did not want to return to their homeland; others wanted to return but apparently felt constrained by those opposed to returning. An NGO worker who frequently visited the camps estimated that 15 percent of their residents desired to return to East Timor. Meanwhile, the heads of at least five districts in East Nusa Tenggara province refused publicly to provide resettlement land for the former refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. During the year, they exercised this right indirectly, as their elected legislators chose governors in regional DPR elections. The Constitution provides for general elections every 5 years. The last elections were held in 1999 and the next were scheduled for April 2004. During the year, the police and military continued to hold 38 appointed seats jointly in the DPR and 10 percent of the seats in provincial and district parliaments; however, according to a 2002 amendment to the Constitution, they will lose their appointed DPR seats after the 2004 elections. The DPR members automatically are members of the MPR, which also includes 130 regional representatives elected by provincial legislatures, and 65 appointed representatives from functional and societal groups.

Domestic and international observers monitored the 1999 elections and considered them largely free and fair. Following the 1999 elections, the MPR, in a transparent manner, elected Abdurrahman Wahid as President and Megawati Soekarnoputri as Vice President. In July 2001, the MPR convened an "Extraordinary Session" to require President Abdurrahman Wahid to account for his performance. Wahid refused to appear, claiming the charges were politically motivated, and instead issued a directive to "freeze" the MPR, the DPR, and the Golkar Party and to hold new elections. This exceeded his authority under the Constitution, and the military and po-

lice refused to enforce these measures. On July 23, 2001, the MPR canceled Wahid's mandate, and Vice President Megawati replaced Wahid as President, as provided by law.

During the year, the Government made preparations for the 2004 national elections, including the first direct election of the President in the country's history. The Election Commission (KPU) scheduled the first round of balloting for April 5, 2004. On July 7, the DPR passed a long-awaited Presidential Election Law. The law lowered the threshold for political parties and coalitions to register their tickets for the presidential/vice-presidential elections. Parties can register their presidential/vice-presidential candidates as much as 2 weeks after the issuance of the results of the legislative elections, if they win 3 percent of the next Parliament's seats or 5 percent of the 2004 popular vote. From a field of over 270 prospective parties, 50 met these registration requirements. The KPU then examined whether these parties met the requirements of the Political Party Law, including having offices and sufficient party membership in a prescribed number of provinces and district. On December 7, the KPU confirmed the eligibility to participate in the 2004 elections of the 6 largest political parties that participated in the 1999 elections as well as 18 parties formed subsequently.

The MPR can amend the Constitution and issue decrees, functions it performed in the first of its "annual sessions" held in 2000. A key demand of the reform movement was an overhaul of the 1945 Constitution, which was seen as having fostered the development of past authoritarian regimes. In the First Amendment of the Constitution, the 1999 MPR passed curbs on executive power, including a limit of two 5-year terms for the President and Vice President. At the same time, the MPR empowered an ad-hoc working committee to consider further amendments and to draft MPR decrees. This effort resulted in the adoption in 2000 of the Second Amendment, which included many important changes, including provisions for protections of human rights, regional autonomy, and further separation of powers. During its 2001 session, the MPR amended the 1945 Constitution to provide for direct presidential and vice-presidential elections, a bicameral legislature with a regional representative's chamber, and a Constitutional Court with the power of judicial review of legislation, certain election disputes and impeachment proceedings. This court was inaugurated on August 17. In 2002 the MPR approved the Fourth Amendment, which requires presidential and vice presidential candidates to run together on a single ticket. It provides for a second round of direct voting if no one candidate gets a majority of votes cast, as well as at least 20 percent of the vote in half of the provinces. The MPR retained authority to amend the Constitution but was no longer empowered to establish broad guidelines of state policy. The constitutional changes also restricted the MPR's authority to impeach the President. The 1999-2002 amendments, if fully implemented, would make the President and the Vice President directly accountable to constituents.

All adult citizens were eligible to vote, except active duty members of the armed forces, convicts who are serving a sentence of 5 years or more, persons suffering from mental disorders, and persons deprived of voting rights by an irrevocable verdict of a court of justice. Former members of the banned Indonesian Communist Party (PKI) are allowed to vote but may not run for office.

There were no legal restrictions on the role of women in politics. A woman, Megawati Soekarnoputri, served as President; however, women accounted for only 2 of the 32 Cabinet ministers, 44 of the 500 DPR members, and 8 of the 45 Supreme Court Justices. In February, the DPR passed an election law that included a non-binding call for parties to select women for at least 30 percent of the candidate slots on their party lists. Some women's rights NGOs were concerned that political parties would simply add women to the bottom of their proportional representation candidate lists, which would result in no significant increase in women DPR members.

There were no legal restrictions on the role of minorities in politics. There were 365 members of minorities in the 500-seat DPR; minorities meaning legislators from areas outside of Java, the most populous island, or neighboring Madura Island. There were 12 members of minorities in the 33-member Cabinet. While most Cabinet members were Javanese, Sundanese, or Madurese, minority members were of Bugis, Batak, Acehnese, Minang, Flores, Balinese, Banjar, Arab or Chinese heritage.

During the year, the Government continued its far-reaching decentralization program authorized by the 1999 Regional Autonomy Law. The devolution of powers continued, primarily to regencies (roughly the equivalent to large counties in the U.S. system) and municipalities.

In Papua, the Government's plan to divide the province into three generated significant opposition from NGOs, religious leaders, community leaders, and the Papuan Governor. Law 45/1999 called for the creation of the two additional provinces

of West Irian Jaya and Central Irian Jaya. However, the subsequent Law for Special Autonomy in Papua in 2001 makes clear that partition is only possible with approval of the Papuan People's Council (MRP) and the Papuan legislature. In January, the Government issued a Presidential Instruction, which overlooked the Special Autonomy Law and called for implementation of the 1999 law. Some critics said the plan would create discord, while others accused the Government of trying to destabilize Papua, to undermine the separatist movement, and to perpetuate full Government control. Stung by this criticism, Home Affairs Minister Hari Sabarno indicated that the partition plan would not be fully implemented until after the 2004 elections. Nevertheless, the Government subsequently recognized the province of West Irian Jaya and inaugurated its governor. In September, local politicians in Timika declared the establishment of Central Irian Jaya, resulting in street fighting between groups for and against the move. Following days of violence that left five persons dead, the Government announced it had postponed the creation of the new province.

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

Domestic NGOs were subject to monitoring, abuse, harassment and interference by the Government; however, they remained active in advocating improvements to the Government's human rights performance. KOMNAS HAM reported that, since 2000, 14 human rights activists had been killed, and that in not one of these cases had the perpetrators been brought to justice. Many NGOs, particularly those in Aceh, accused the security forces of obstructing their activities and expressed concern that this prevented the revealing of many human rights violations. During the year, organized groups attacked members or offices of a number of NGOs and related organizations, including Kontras, IMPARSIAL, the Indonesian Red Cross (PMI), the Human Rights and Anti-Violence Foundation (HAMAK), and others.

In Aceh, NGOs experienced intense governmental interference, particularly after the Government launched a military operation against GAM rebels in May. The security forces repeatedly summoned many domestic NGO activists for questioning regarding possible links to GAM. The resulting intimidation prompted between 100 and 200 activists to leave the province. The Government effectively prohibited foreign humanitarian aid workers from the province, except for a limited number attached to U.N. agencies. For example, in June, a government decree prevented foreign NGOs from communicating directly with Acehnese without prior approval from local authorities. The same decree required martial law administrators to distribute all humanitarian aid. The Government criticized NGOs that questioned its policies. HRW called for the removal from Aceh of six serving or retired TNI officials who are known human rights violators. In November, the TNI removed Major General Adam Damiri, who was convicted of crimes against humanity by the country's own Ad Hoc Tribunal for Human Rights in East Timor (see Section 1.e.).

Following the imposition of martial law in Aceh, the Government charged at least six activists with crimes, including Cut Nurasikin, a director of Srikandi Aceh, a prominent Acehnese women's organization. Police charged her with being a leader of Inong Balee, GAM's women's auxiliary. She was convicted on October 21 and sentenced to 11 years in prison. On July 3, political activist Muhammad Nazar was convicted and sentenced to 5-years' imprisonment (see Section 1.e.).

There were reports of the killing of members of NGOs in Aceh (see Section 1.a.). For example, on June 7, a Kontras volunteer named Syaiful Bachri was shot and killed in the East Aceh village of Beringin. The military claimed that four GAM members shot Bachri while he was en route to his parents' home.

In September in Papua, five unidentified men abducted NGO activist Abner Doundi of HAMAK and held him for 18 hours. Papuan police chief Budi Utomo promised to investigate; however, there had been no further developments by year's end. In a separate case, the TNI commander in Papua, Major General Nurdin Zainal, submitted, withdrew, and then resubmitted a defamation lawsuit against John Rumbiak and Yohanis Bonay of the NGO ELS-HAM. The suit, which also named four editors at two newspapers as defendants, stemmed from a press conference ELS-HAM held in the wake of the August 2002 ambush near Timika. The lawsuit was ongoing at year's end. Unknown persons repeatedly threatened bodily harm against a number of leading human rights activists in Papua, including Pieter Ell, the head of Kontras' operations in Jayapura.

In Jakarta, approximately 100 members of the paramilitary youth group Pemuda Panca Marga attacked the offices of Kontras on May 26 and 27 after its founder, Munir, criticized the Government's decision to launch a military offensive in Aceh. The PPM members, many of whom are the children of veterans, reportedly destroyed office equipment and injured three Kontras staffers. Among those injured

was coordinator Ori Rachman, who was forced to sing a patriotic song and beaten when he did not know all of the words. Jakarta police failed to answer Kontras' calls for help during the May 26 attack. Police Chief Sukrawardi Dahlan reportedly explained that his officers were all at a meeting at the time and were unable to respond. On May 28, TNI commander General Endriartono Sutarto stated that Kontras should reflect on the attackers' motivation. Police eventually detained two of the attackers, who were charged with "violence against people and property," an offence that could carry a 5-year jail term. On August 29, an explosive device detonated near the front door of Munir's West Java home. No injuries were reported.

The Government made some progress in prosecuting those responsible for the March 2002 attack by hundreds of Betawi Brotherhood Forum (FBR) members against activists of the Urban Poor Consortium (UPC) at the Jakarta office of KOMNAS HAM. In April, the Central Jakarta District Court sentenced six members of the FBR to 6 months in prison, saying they had instigated the attack. The six appealed the verdict to the Jakarta High Court, and the appeal was pending at year's end.

The Government reported no progress in prosecuting the perpetrators of the December 2002 shooting in Papua of several family members of Johannes Bonay, executive director of ELS HAM. At least three of the family members were wounded.

The Government generally viewed outside investigations or foreign criticism of its human rights record as interference in its internal affairs. The security forces and intelligence agencies tended to regard foreign NGOs with suspicion, particularly those operating in conflict areas. Government monitoring of foreigners was apparent in some conflict areas. Some domestic NGOs expressed concern about possible negative consequences of contacting foreigners.

A number of government agencies and affiliated bodies addressed human rights issues, including the Ministry of Justice and Human Rights, the Ministry of Foreign Affairs, the Ministry of Women's Empowerment, and KOMNAS HAM. During the year, KOMNAS HAM's efforts to expose human rights violations and bring perpetrators to account were undermined by a number of court decisions regarding the Commission's jurisdiction or authority. For example, on July 28 a Jakarta court refused to subpoena former and active military officers who had ignored KOMNAS HAM summonses to face questioning over the 1998 riots, which claimed more than 1,200 lives. By law, severe human rights violations that occurred before 2000 could only be investigated by an ad-hoc human rights court, not KOMNAS HAM. Consequently, the Commission described a catch-22 situation: Such a court could only be formed at the suggestion of the DPR, but in order for the DPR to know enough about an incident to approve the formation of a court, a thorough investigation was necessary. The resulting stalemate blocked progress toward accountability. Some activists complained that the division of government responsibilities was unclear.

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

The Constitution does not explicitly prohibit discrimination based on gender, race, disability, language, or social status. It provides for equal rights for all citizens, both native and naturalized. In practice, however, the Government failed to defend these rights adequately, and the basic rights of women and children were frequently abused. The Government did little to defend the rights of persons with disabilities. There was some societal discrimination against persons with HIV/AIDS; some such individuals received prejudicial treatment at medical centers, saw their confidential lab results released or had their identity published in a newspaper. In most if not all such cases, the Government failed to take corrective action. However, the Government encouraged tolerance, took steps to prevent new infections and drew up plans to subsidize anti-retroviral drugs.

Women.—Violence against women remained poorly documented. Nationwide figures were unavailable, but the Jakarta office of the NGO Legal Aid for Women (LBH-Apik) received reports of 280 cases in the capital during the year. The NGO said 70 of these cases involved physical abuse, 124 psychological, 85 economic, and one sexual. Jakarta's biggest hospital, Cipto Mangunkusumo, treated 112 women for domestic-violence injuries during the year. In West Sumatra, police received 33 reports of violence against women during the first six months of the year. Two types of crisis centers were available for abused women: Government-run centers in hospitals and NGO centers operated in the community. During the year, the Women's, Health, and Social Welfare ministries signed a memorandum of understanding with the National Police on the establishment of integrated crisis centers at certain police hospitals.

Rape was a problem. It is punishable by 4 to 12 years in jail, and the Government jailed perpetrators for rape and attempted rape. Reliable nationwide statistics were unavailable, but Jakarta police reportedly tallied 134 rape cases in the capital dur-

ing the year, marking a 25 percent increase from 107 in 2002. During the year, Cipto Mangunkusumo treated 91 women and 127 girls for rape and 132 girls for sexual assault. Women's rights activists speculated that these figures were artificially low because of the social stigma associated with rape. The law requires penile penetration to constitute rape. On several occasions in 2002 in Aceh, soldiers were not held accountable for violating women with bottles and other foreign objects. However, during the year, the Department of Justice and Human Rights completed a draft Criminal Code Bill that contained a provision expanding the definition of rape to cover the insertion of foreign objects into a woman's vagina or anus. The bill had not passed by year's end.

In Jakarta, eight men gang-raped a 16-year-old girl shortly after she arrived from her village in Central Java. On August 29, police arrested seven of the suspects; an eighth suspect evaded arrest and remained at large at year's end. After arriving in the capital, the girl was reportedly promised a job by one of the men. He then reportedly took her to the house, where she was gang-raped over a 2-day period before being taken to a pub, where she was instructed to wait on tables. The girl eventually managed to contact police. On September 17, a 15-year-old girl became one of thousands of persons to be brutally evicted from state-owned land in Cengkareng, West Jakarta. Later that day, she was found in a state of shock at a train station; evidence suggested that she had been sexually attacked by public order officials.

Rapes committed by members of the security forces were most numerous in Aceh, the scene of a major military operation against GAM rebels. Human rights activists expressed concern that rapes were being underreported in the province, partly because of press restrictions. The NGO consortium Sahabat Aceh reported that up to 100 rapes were committed in Aceh from May to September, but that only 21 cases of rape or sexual harassment had been reported to the authorities. The TNI prosecuted a few rape suspects. On July 19, a military court in Banda Aceh convicted three low-ranking soldiers and sentenced them to between 2½ and 3½ years in prison. The three soldiers, who were also discharged from the army, raped four women in the village of Alue Lhok between June 20 and 22. In each case, the soldier allegedly threatened to kill the victim if she spoke out.

Although it was unclear that GAM rebels committed rape during the year, there were numerous reports in previous years that GAM members committed rape.

During the year, many police stations set up a "special crisis room" (RPK), where female officers received criminal reports from sexual assault victims.

Sexual harassment was not a crime, but "indecent behavior" was illegal. The law only addresses physical abuse and requires two witnesses.

The Guidelines of State Policy, legal statutes adopted by the MPR, explicitly state that women have the same rights, obligations, and opportunities as men. However, the guidelines also state that women's participation in the development process must not conflict with their role in improving family welfare and the education of the younger generation. Marriage law designates the man as the head of the family. Women in many regions of the country, particularly in Papua, complained that they were frequently treated as second-class citizens.

The legal differentiation between a woman and a girl was not clear. The Marriage Law sets the minimum marriageable age at 16 for a woman (and 19 for a man), but the Child Protection Law states that those below 18 are children.

Female genital mutilation (FGM), also known as female circumcision, was practiced in some parts of the country, particularly in West Java and Madura Island. Although no new data were available, data from a 2002 study in areas where FGM was prevalent indicated that pain, suffering, and complications were minimal. Two types of persons performed the procedure: midwives and local traditional practitioners. Researchers said the midwives' procedure involved the tearing, cutting or piercing of part of the genitals, but not the removal of tissue. Most of the local traditional practitioners, on the other hand, stated that they customarily removed tissue, but the extent of this removal remained unclear. Likewise, it was unclear whether the removed tissue was from the clitoris, labia minora, or elsewhere. Some NGO activists dismissed any claims of mutilation, saying the ritual as practiced in the country was largely symbolic.

Trafficking in women and young girls was a serious problem (see Section 6.f.). During the year, there were reports that in some areas of the country, parents encouraged or sold their daughters to work as prostitutes in large urban areas.

Divorce was a legal option open to both men and women. Muslims who sought divorce generally had to turn to the Islam-based family court system. Non-Muslims obtained divorces through the national court system. Women often faced a heavier evidentiary burden than men, especially in the family court system. Many divorcees received no alimony, as there was no system to enforce alimony payments. Rights activists criticized the Marriage Law, saying it requires a woman who has just got-

ten divorced to wait a certain period of time before remarrying, while a man can enter into marriage immediately.

The Citizenship Law states that a child's citizenship is derived solely from the father. Children of citizen mothers and foreign fathers are considered foreigners, and require visas to remain in the country until 18, at which age they can apply for citizenship. These children are prohibited from attending public schools, and many were forced to attend private international schools. In cases in which a citizen mother lived abroad with her foreign husband, divorces sometimes caused severe child custody problems. The children of foreign women married to Indonesian men also faced difficulties. A foreign woman married to a citizen can obtain Indonesian citizenship after 1 year, if desired.

On March 3, the Government began to implement Shari'a (Islamic law) in Aceh (see Section 2.c.). There did not appear to be a significant impact on women's rights by year's end.

In Papua, as part of the province's Special Autonomy status, 30 percent of seats in the proposed Papuan People's Council (MRP) were slated for women; however, at year's end, the Government had not yet issued regulations for the MRP's formation. Also during the year, the Papuan women's NGO Yayasan Humi Inane complained that the Government had done nothing to improve the plight of Papuan women, who lagged far behind many other women in the country by most measures of health, education, and development. The NGO added that traditional, sexist Papuan attitudes exacerbated the problem.

Women faced considerable discrimination in the workplace, both in terms of obtaining positions and in gaining fair compensation for labor performed. During the year, the International Labor Organization's (ILO) Jakarta office reported that on average, women in the workforce earned 68 percent of that of male workers. In 2002, the Government stated that 38 percent of civil servants were women, but that only 14 percent of these women held positions of authority.

Some activists said that in manufacturing, employers relegated women to lower-paying, lower-level jobs. Many female factory workers were hired as day laborers instead of as full-time permanent employees, and companies were not required to provide benefits, such as maternity leave, to day laborers. According to the Government's Central Statistics Bureau, in May 2002, the unemployment rate for men was higher than that for women. If a husband and wife both work for a government agency, the couple's head-of-household allowance is given to the husband. There were reports that female university graduates received an average salary that was 25 percent less than their male counterparts.

Contraceptive use was largely the responsibility of women.

A number of organizations promoted women's rights or otherwise addressed women's issues during the year, including Solidaritas Perempuan, Mitra Perempuan, LBH-Apik, and the International Catholic Migration Commission (ICMC).

Children.—The Government stated its commitment to children's rights, education, and welfare, but devoted insufficient resources to fulfil that commitment. In practice, most schools were not free of charge, and poverty put an education out of reach of many children. Child labor and sexual abuse were serious problems during the year (see Sections 6.d. and 6.f.). Although girls and boys ostensibly received equal educational opportunities, boys were more likely to finish school. In January, the leader of the National Commission for Child Protection (KOMNAS PA) identified the most pressing issues related to the country's youth as: Child labor, child trafficking, child prostitution, street children, children in conflict areas, and undernourished children. The National Child Protection Act addresses economic and sexual exploitation of children, as well as adoption, guardianship, and other issues; however, some provincial governments did not enforce its provisions.

Children suffered casualties in areas of armed conflict. For example, on July 24 in Aceh, a grenade buried in a sandbox exploded, killing two sisters and seriously injuring their brother. The TNI alleged that GAM rebels had planted the grenade. Many children in Aceh reportedly have died as a result of explosives concealed by both sides in sandboxes and paddy fields. On May 21, 2 boys were among 10 males shot and killed by the security forces in the Bireuen village of Cot Rebo. The TNI claimed that the victims were all rebels; however, the Government conceded that it had not found any weapons. Residents said the victims were guarding the village's shrimp ponds.

Reported cases of violence against children increased in East Java during the year. Government authorities there recorded a total of 193 such cases, most involving sexual violence, in the first 6 months of the year, compared with 258 cases for all of 2002. In West Java and Jakarta, a child-kidnapping ring terrorized families and entire communities. The gang kidnapped as many as 10 children for ransom and killed at least 2 of them: A 2-year-old girl, who was raped before being killed,

and a 9-year-old girl, who was killed in spite of the payment of a ransom by her father. In September, police investigating the crimes arrested a suspect and members of his family. The key suspect confessed and at year's end remained in police custody, charged with kidnapping, murder, and vehicle license fraud.

By law, children are required to attend 6 years of elementary school and 3 years of junior high school; however, in practice, the Government did not enforce these requirements. According to 2002 UNICEF data, 96 percent of children aged 7 to 12 were enrolled in school; among children aged 13 to 15, 79 percent were enrolled in school; and among children aged 16 to 18, 49 percent were enrolled in school.

Monthly fees for public schools varied from province to province and were based on average incomes. During the year, some parents found it more difficult to afford the \$1.30 to \$5.30 monthly fee that most public elementary schools charged, in addition to the costs of uniforms and school materials. It was unclear how many children were forced to leave school to help support their families. On August 22, in an incident that drew widespread attention, a 12-year-old boy in the West Java regency of Garut was in a coma after attempting suicide because his parents could not afford to pay the 30 cents demanded by his teacher for school equipment. In some areas of the country, parents and watchdog groups complained that corruption among public servants severely undermined the quality of education. Parents of students at Senior High School 21 in East Jakarta accused school officials of misappropriating school funds, and a member of Indonesian Corruption Watch (ICW) who studied the case reported that only 15 percent of the funding received had been spent on educational activities. ICW reported that some principals in East Java, West Java, and North Sumatra bribed Education Ministry officials to secure special funding for their schools.

Conflicts or the lingering effects of conflicts disrupted the education of many children during the year.

For example, in Aceh province, more than 603 school buildings were burned in the months after the May start of the military operation against GAM rebels. KontraS said 361 of these schoolhouses were elementary schools. According to the deputy chief of the provincial education department, at least 56 teachers had been killed and more than 100 injured following the start of the operation. On August 25, a provincial education official said Aceh faced a shortage of 20,000 teachers. Thousands of children studied at makeshift schools, at mosques, and inside tents.

Many children grew up in poor health conditions. Malnutrition remained a serious problem. For example, Central Java health authorities announced that in the first 6 months of the year, 44,633 babies were found to be suffering from malnutrition, representing 1 out of every 6 babies in the province. The country's infant mortality rate remained high. According to UNICEF, there were 50 deaths for every 1,000 births during the year. Some health experts attributed the problem to poor service at public health centers.

The number of street children across the country was unknown. KOMNAS PA estimated 40,000 to 50,000 nationwide, but a study carried out in December 2002 by Family Health International (FHI) estimated the number at nearly 71,000, and there was no significant improvement in the situation during the year. Substantial street-child populations were apparent in Jakarta, East Java, West Java, North Sumatra, and South Sulawesi provinces. Surabaya, East Java, was home to approximately 8,000 street children, many reportedly susceptible to sexual abuse and violence. Around 40 shelters in the province provided services to such children. In August, the Jakarta provincial government announced that it would establish a large dormitory for street children capable of housing between 600 and 1,000 children. The city government also agreed to pay the children's schooling and provide a stipend of approximately \$58 to the children's parents to help them set up home businesses. The shelter had not yet been opened by year's end.

Commercial sexual exploitation of children continued to be a serious problem. The number of child prostitutes in the country was unclear; however, an ILO assessment estimated that there were approximately 21,000 child prostitutes on the island of Java. On October 7, a team of NGO and health officials visited a prostitution complex in Riau province and estimated that 30 to 40 percent of the 365 female sex workers there were less than 18 years of age. Although some teenage girls entered the sex trade knowingly, many were forced. At times, law enforcement officials treated child sex workers as perpetrators of crime, rather than victims. Women's rights activists and religious groups accused government officials, including police and soldiers, of operating or protecting brothels that employed underage prostitutes. During the year, corrupt civil servants issued identity cards to underage girls, facilitating entry into the sex trade. According to the Surabaya Social Department, of the 7,800 sex workers in that city and its environs, 30 percent were under the age of 18. Attention was drawn to the case of a 13-year-old female sex worker who told

journalists she had decided to become a prostitute because of her family's economic problems. There also were reports of sexual exploitation of boys. During the year, Jakarta's biggest hospital treated 18 boys for sexual assault. NGOs also reported long-active pedophile rings operating in Bali.

During the year, there were cases in which parents accepted advances of future salaries from employment brokers in exchange for their daughters. The child was required to repay the employment brokers at a later stage. Researchers described a "culture of prostitution" in some parts of the country, where parents encouraged their daughters to work as big-city prostitutes and send the proceeds home.

NGO observers said many girls were forced into prostitution after the failure of marriages they had entered into when they were as young as 10 to 14 years of age. There was no obvious violation of the law because their paperwork identified them as adults due to the fact they were once married.

Child abuse is not prohibited specifically by law; however, there were no reliable sources on violence within families. Governmental efforts to combat child abuse have generally been slow and ineffective. NGOs reported that it continued to take excessively long to bring a child rape case to court and that the reporting and handling mechanisms for child abuse cases were vague.

Child labor was a problem. In January, the ILO reported that 8 million children under 18 were doing the work of adults (see Section 6.d.).

Trafficking of children was a problem (see Section 6.f.). After an Indonesian man was reportedly caught selling two babies in Malaysia, police in Riau province launched an investigation and eventually arrested at least six suspects. One of the suspects was a doctor connected to a women's clinic on the Riau island of Karimun, whose name appeared on a number of medical certificates that accompanied infants who later turned up in Malaysia. The documents certified that the babies were free of HIV/AIDS.

There is no separate criminal justice system for juveniles and ordinary courts adjudicated such cases. KOMNAS PA reported that more courts were starting to involve social workers in children's trials, to safeguard their rights, but that financial constraints kept social workers from being available at all such trials. At year's end, the Government still had not implemented a 1997 Juvenile Justice Law, which calls for a special juvenile court system.

A number of NGOs promoted children's rights, including Child Advocacy Network (JARAK), National Commission on Child Protection (KOMNAS ANAK), Center for Study and Child Protection (PKPA), and Foundation for Indonesian Child Welfare (YKAI).

Persons with Disabilities.—The law mandates access to buildings for persons with disabilities; however, the Government did not enforce these provisions. The Disability Law requires companies that employ over 100 workers to set aside 1 percent of their positions for persons with disabilities. However, the Government did not enforce the law, and persons with disabilities faced considerable discrimination. The law also mandates accessibility to public facilities for persons with disabilities; however, extremely few buildings and virtually no public transportation facilities provided such accessibility. Recent statistics on the disabled population were not available. In 1999 the U.N. estimated the percentage of persons with disabilities at 5.43 percent of the population, or approximately 12 million persons; the Government put the number at 3 percent, or roughly 7 million persons. The Government classified persons with disabilities into four categories: The blind, deaf, mentally disabled, and physically disabled. The Constitution requires the Government to provide them with care; however, "care" was not defined, and the provision of education to disabled children was never inferred from the requirement.

In urban areas, only a few city buses offered wheelchair access, and many of those have had their hydraulic lifts vandalized, rendering them unusable. In other cases, the space reserved for wheelchairs was occupied by other passengers because the bus conductors could earn more money.

On August 28, an executive of the Indonesian Association of the Disabled (PPCI) met with Vice President Hamzah Haz and complained that many companies were violating the Disability Law. The penalty for a violation is a maximum fine of \$23,500, but PPCI alleged that the law was not being enforced. The Vice President reportedly agreed with PPCI; however, no official action was taken by year's end.

During the year, the Government said the country was home to 1.3 million children with disabilities, but that only 50,000 of them attended school. The true number of disabled children was believed to be much higher. The law provides children with disabilities with the right to an education and rehabilitative treatment. A government official alleged that many parents chose to keep their children with disabilities at home; however, many schools refused to accommodate such children, stating the schools lacked the resources to do so. According to the Government, there were

700 schools dedicated to educating children with disabilities; all but 41 of them were run privately. Some young persons with disabilities resorted to begging for a living.

Indigenous People.—The Government views all citizens as “indigenous,” with the exception of ethnic Chinese; however, it recognizes the existence of several “isolated communities” and their right to participate fully in political and social life. These communities include such groups as the myriad Dayak tribes of Kalimantan, families living as sea nomads, and the 312 officially recognized indigenous groups in Papua. Indigenous people remained subject to widespread discrimination during the year, and there was little improvement in respect for their traditional land rights. Mining and logging activities, many of them illegal, posed significant social, economic, and logistical problems to indigenous communities. The Government failed to stop domestic and multinational companies from encroaching on indigenous people’s land, often in collusion with the local military and police.

In Sumatra, where there were many lowland tropical forests, corporate interests continued to take over lands traditionally claimed by indigenous communities, who relied on them for rice farming and rubber tapping. HRW and other NGOs reported that the creation of huge plantations to serve the paper and pulp industry threatened the livelihoods of many indigenous people. Some indigenous people unsuccessfully filed land claims with the authorities. In the Sumatran subdistrict of Porsea, local people and environmental groups, including WALHI, condemned the Government’s decision to reopen a pulp company, PT Toba Pulp Lestari (formerly PT Indorayon), which was closed in 2002. The company’s pulp mills were blamed for far-reaching environmental degradation, and at least 5 persons involved in the dispute had been killed in recent years. In February, KOMNAS HAM noted that both sides in the dispute had committed significant human rights violations.

In Central Sulawesi’s Kambuno mountains, indigenous persons continued to protest plans by an Anglo-Australian mining company to open a gold mine on land traditionally inhabited by the Poboya people. The Governor and several NGOs also expressed opposition to the plan because the Kambuno area is designated as a protected forest. According to the journalist watchdog group AJI, the company encouraged the DPR to change the status of the site from a protected forest to a productive forest. Several mining companies complained that a 1999 law that changed the status of a number of producing forest areas did not respect existing contracts and requested that the Government honor the terms of those pre-existing contracts.

In Southeast Sulawesi, the Moronene people continued their struggle for government recognition of their claim to ancestral land in what is now the Rawa Aopa Watumohai National Park. During the year, no clashes with police were reported and police released 11 residents of the villages of Hukaea and Laea who were detained in May 2002. In addition, police did not take any immediate action against some 100 families who had occupied the land.

In Papua, the Government failed to fully implement the Special Autonomy Law, which took effect in January 2002. Meanwhile, tensions continued between indigenous Papuans and migrants from other provinces, between residents of coastal and inland communities, among tribes, and increasingly, between supporters and opponents of the creation of new Papuan provinces (see Section 3). Some in the indigenous community accused the newcomers of price gouging and condescension, while some newcomers claimed that indigenous Papuans treated them with resentment and suspicion. During the year, many indigenous Papuans expressed alarm over the continuing influx of migrants and speculated that they were part of a Government attempt to subjugate indigenous Papuans.

In Central Kalimantan, relations between indigenous Dayaks and ethnic Madurese transmigrants remained poor in the wake of inter-ethnic violence in 2001. However, at least 13,000 displaced ethnic Madurese returned to the province between March and December (see Section 2.d.). Relations between the two groups remained poor also in West Kalimantan, where former residents of Madurese descent were obstructed in their attempts to reclaim their property.

Human rights activists stated that the government-sponsored transmigration program violated the rights of indigenous people, bred social resentment, and encouraged the exploitation and degradation of natural resources on which many indigenous persons relied. In some areas, such as parts of Sulawesi, the Maluku, Kalimantan, Aceh, and Papua, relations between transmigrants and indigenous people were hostile. Some indigenous groups claimed that they received less government support than transmigrants, and some transmigrants claimed that in some cases they were moved to areas with undesirable land, or where the land’s ownership was in dispute.

National/Racial/Ethnic Minorities.—The Government officially promotes racial and ethnic tolerance. Ethnic Chinese accounted for approximately 3 percent of the

population, by far the largest non-indigenous minority group, and played a major role in the economy. Although the year started well for Chinese citizens, who on February 1 celebrated the Lunar New Year as a national public holiday for the first time, there were many instances of discrimination and harassment during the year. To obtain a passport, business license, or credit card, or to enroll a child in school, Chinese citizens had to first show a Republic of Indonesia Citizenship Certificate (SBKRI), a document not required of non-Chinese citizens. This requirement provided an extortion opportunity for the many bureaucratic institutions involved in the issuance process. An attorney advocate for the rights of ethnic Chinese stated that more than 60 articles of law, regulation or decree were in effect that discriminated against Chinese citizens. NGOs such as the Indonesia Anti-Discrimination Movement (GANDI) called on the Government to revoke these articles.

In May, a police chief in West Jakarta drew attention for allegedly blackmailing traders of traditional Chinese medicines. The police chief denied the accusations, but DPR member Haryanto Taslam stated that he had copies of receipts that appeared to implicate the police chief and in June, passed the evidence to the chief of the National Police. The West Jakarta police chief was subsequently replaced. On September 2, around 50 Chinese-Indonesian families in the West Java city of Tangerang protested in front of the Tangerang Council building over the alleged sale of land traditionally used as a Chinese cemetery. The families complained that the sale of the land for a commercial development prevented them from being able to bury their dead beside loved ones. City councilors agreed to review the case. During the year in Garut, East Java, a Chinese community organization, Paguyuban Marga Tionghoa (PMT), helped resolve a debt-collection dispute dating from July 2002. Regency officials had informed the Chinese community that it would have to cover unpaid debts of an ethnic Chinese businessman. However, during the year it was decided that the debtor, not the community, would be held accountable for the debts. However, no legal action was taken against the regency officials.

During the year, some Chinese citizens complained that the Government had not done enough to prosecute those responsible for the 1998 violence against them and their businesses.

In Papua, TNI authorities estimated the number of armed OPM rebels at more than 1,600. A prominent Papuan, Willy Mandowen, accused the Government of exaggerating this number to justify the deployment of large numbers of troops in the province. The NGO Institute for Human Rights Study and Advocacy (ELS-HAM) reported that rebel units were armed mainly with traditional bows, arrows, and spears. Indigenous Papuans complained that they were underrepresented in the civil service of that province; however, due largely to the partial implementation of the Special Autonomy Law and the creation of 14 new regencies in Papua, there was a large increase in the number of government positions for ethnic Papuans. However, many Papuans were disappointed with the performance of ethnic Papuan officials, alleging they were as corrupt as the non-ethnic Papuans.

After the Government declared martial law in Aceh province, a number of ethnic Acehnese outside the province complained of discriminatory treatment by local authorities. In late May, Jakarta Governor Sutiyoso warned Jakarta citizens to be on alert against "Acehnese terrorists" infiltrating the capital. He ordered local neighborhood leaders to register and report any unknown persons or new arrivals of Acehnese descent. Many Acehnese, even long-time Jakarta residents, reported increased tensions with neighbors and occasional taunts. In late May, youth gangs ransacked a mosque that was frequented by Acehnese; several Acehnese suffered injuries. Acehnese in Semarang and Padang also reported official harassment by local authorities based on their ethnicity; however, by August, the situation appeared to return to normal and most Acehnese reported no further problems.

Section 6. Worker Rights

a. The Right of Association.—The Labor Union Act provides broad rights of association for workers, and workers exercised those rights. The law stipulates that 10 or more workers have the right to form a union. Union membership must be open to all workers, regardless of political affiliation, religion, ethnicity, or gender. Private sector workers are by law free to form worker organizations without prior authorization, and unions may draw up their own constitutions and rules and elect representatives. The Government records, rather than approves, the formation of the union and provides it with a registration number. In addition, the law provides that union dues must finance union activities, but does not indicate how dues should be collected or whether management has a role in collecting dues. A regulation that requires that police be notified of all meetings of five or more persons of all organizations outside offices or normal work sites applies to union meetings. The police periodically showed up uninvited at labor seminars and union meetings,

which often had an intimidating effect. Under the law and registration regulations, 75 union federations notified the Ministry of Manpower and Transmigration of their existence. In addition, thousands of workplace-level units registered with the Ministry.

On February 25, the DPR passed the Manpower Development and Protection Act, following months of intensive consultations with unions and employers, both of whom rejected a July 2002 draft. The Act regulates collective bargaining, the right to strike, and general employment conditions. The Act does not apply to state-owned enterprises (SOE). The International Labor Organization (ILO) provided technical assistance in the development of the law, which generally met ILO standards. Some unions remained opposed claiming the law contained inadequate severance benefits, insufficient protection against arbitrary terminations, and legalization of child labor under some conditions. At year's end, the Government had issued some, but not all, of the required implementing regulations for the Manpower Act.

Government regulations prohibited employers from discriminating against or harassing employees because of union membership; however, there were frequent, credible reports of employer retribution against union organizers, including dismissals and violence, which were not prevented effectively or remedied in practice. Some employers warned employees against contact with union organizers. Some unions claimed that strike leaders were singled out for layoffs when companies downsized. On January 17, police in Tangerang arrested Munawir bin Muhammed Sidik, a garment worker and union activist, for carrying a knife in the factory, P.T. Kharisma Kulit Indah, where he was employed. The Solidarity Center reported that during the days prior to his arrest, company-employed thugs assaulted Munawir in an effort to intimidate and fire him because of his union activism. On the day of his arrest, thugs again attacked Munawir and left him unconscious. Prosecutors charged Munawir with carrying a restricted weapon. On June 3, the court convicted him and sentenced him to 5 months in jail.

The country has three main trade union confederations. The Confederation of All Indonesian Trade Unions (KSPSI), formed by the government-directed merger of labor organizations in 1973, is the oldest trade union organization and remained the largest confederation. The leader of KSPSI concurrently served as Manpower Minister. Some employers and unions questioned whether the dual role created a conflict of interest in adjudicating disputes between unions or between companies and workers. The Indonesian Prosperity Trade Union (SBSI), established in 1992 and legally recognized in 1998, was often cited as the second largest confederation. In February, 12 national unions formed a new confederation, the Committee of Trade Unions of Indonesia (KSPI). KSPSI, SBSI, and KSPI together represented over 90 percent of all union members, according to the Solidarity Center.

There were credible claims of government interference in SBSI's Fourth Congress, held from April 27 to May 1. An opposition group within SBSI reportedly admitted that it received over \$22,000 from the Manpower Ministry to oppose SBSI leaders and carry out disruptive activities. The resulting serious disputes within the Congress led to SBSI's ejection of 32 delegates. Some SBSI leaders attributed the interference to the Government's opposition to a new political party, the Social Democratic Labor Party, led by SBSI's former chairman.

The national social security agency, JAMSOSTEK, subsidized the operations of KSPSI and, to a lesser extent, SBSI and some other unions. Some trade union activists stated that such subsidies undermine trade union independence.

The law allows the Government to petition the courts to dissolve a union if its basis conflicts with the state ideology of Pancasila or the Constitution, or if a union's leaders or members, in the name of the union, commit crimes against the security of the State and are sentenced to at least 5 years in prison. Once a union is dissolved, its leaders and members may not form another union for at least 3 years. There were no reports of the Government dissolving any unions during the year.

The law does not address the adjudication of jurisdictional disputes among multiple unions in a workplace, and existing laws and regulations do not provide clear guidance on how jurisdictional disputes should be handled. Such ambiguity occasionally led to clashes between unions.

The law recognizes civil servants' freedom of association and right to organize. In 2002, employees of several ministries announced that they would form their own employee associations, and union organizations began to seek members. Unions also sought to organize SOE employees, although they encountered some resistance from enterprise management, and the legal basis for registering unions in SOEs remained unclear.

The law stipulates that unions may affiliate and cooperate with international trade unions and organizations. The KSPSI maintained international contacts and

was an affiliate of the Association of Southeast Asian Nations Trade Union Council. SBSI was affiliated with the World Confederation of Labor and some international trade union secretariats. The newly formed KSPI established relations with the International Confederation of Free Trade Unions' Asia and Pacific Regional Organization (ICFTU/APRO). Other unions maintained contacts and affiliations with international labor federations.

b. The Right to Organize and Bargain Collectively.—The law, including the new Manpower Act, provides for collective bargaining, and the Manpower Ministry promoted it within the context of Pancasila. The law allows for workers' organizations that register with the Government to conclude legally binding collective labor agreements (CLAs) with employers and exercise other trade union functions. In companies without unions, the Government discouraged workers from utilizing nongovernmental outside assistance, such as during consultations with employers over company regulations. Instead, the Manpower Ministry preferred that workers seek its assistance and stated that its role was to protect workers. However, there were credible reports that for many domestic and foreign-owned companies, ministry consultations with workers were perfunctory at best and usually only occurred with management-selected workers.

According to the Manpower Ministry, as of October, there were 9,097 CLAs in effect between unions and private companies. According to this data, 25 percent of companies with over 10 employees had collective labor agreements. Company regulations, allowed for under government regulations, substituted for CLAs in another 36,170 companies, many of which did not have union representation. In addition, there were 59 labor agreements in effect between unions and state enterprises, and another 65 agreements between non-unionized workers and state enterprises. The new Manpower Act requires that employers and workers form bipartite bodies (joint employer/worker committees), but the Manpower Ministry did not complete implementing regulations and the number of bipartite bodies did not increase significantly.

The new Manpower Act stipulates that if CLA negotiations are deadlocked, the Institution for Industrial Relations Dispute Settlement should settle the matter. According to regulations, agreements are for 2 years and can be extended for 1 year. According to NGOs involved in labor issues, the provision of collective bargaining agreements in practice often did not go beyond the legal minimum standards established by the Government, and employers often presented the agreements to worker representatives for signature rather than negotiation.

All workers, whether or not they are union members, have the legal right to strike, except for public sector workers and those involved in public safety activities. The law allows workers in these categories to carry out strikes only if such actions would not disrupt public interests or endanger public safety. State enterprise employees rarely exercised the right to strike, but private sector strikes were common. Unions or workers' representatives must provide 7 days notice in order carry out a legal strike. The law calls for mediation by local Manpower Ministry officials, but does not require government approval of strikes. In previous years, workers and employers rarely followed dispute settlement procedures in practice and workers rarely gave formal notice of the intent to strike because Manpower Ministry procedures were slow and had little credibility among workers. At year's end, it was unclear whether passage of the Manpower Act would change this situation.

During the year, strikes occurred across a wide range of industries, but declined in frequency. From January to October, the Manpower Ministry recorded 134 strikes involving 56,464 workers, continuing a steady decline since 2000. Observers speculated that depressed economic conditions, fears of job loss, and gradual worker and employer adjustment to the new labor relation's environment contributed to the decline in strikes. The vast majority of Government-recorded strikes involved non-union workers.

During the year, police and prosecutors in Bandung dropped legal action against and released from custody five labor activists arrested in September 2002 during protests over pending labor legislation.

On March 23, an independent union representing former employees at the Shangri-La Hotel in Jakarta settled a long-standing dispute stemming from a 2000 strike that included violence against workers, detention of workers, and the dismissal of some 580 employees. Worker representatives had brought this case before the ILO, which criticized the Government's response and called for the hotel to reinstate the employees. As part of the settlement, 72 union members, who had not accepted a previous severance package, reportedly received payments equivalent to 4 to 6 years' salary. The hotel also dropped its civil suit against union leaders, and in return, the union dropped its suit seeking reinstatement of the workers.

The Solidarity Center documented cases in which foreign employers in the garment and footwear industry, representing Korean, Japanese, Chinese, and Taiwanese owners, fled the country as the industry contracted in order to avoid making legally required severance payments to workers. One such case involved the garment factory P.T. Elaine, whose Taiwanese managing partners left the country without making wage and severance payments to 300 workers. Subsequently, workers occupied the factory in an attempt to guarantee that proceeds from the sale of equipment would be used to compensate workers.

Labor activists also reported that factory managers in some locations employed persons to intimidate and assault trade union members who attempted to organize legal strike actions. According to detailed trade union accounts, the management of agro-business PT First Mujur Plantation and Industry (PT FMPI) in North Sumatra hired 100 persons to prevent a legal strike action announced by the SBSI union for November 12. SBSI planned the strike to protest unpaid wages and other violations of labor law. On November 11, these persons abducted and severely beat 5 trade union leaders. On November 12, they delivered the union leaders to a local police station, where police began investigating charges against the labor leaders for inciting criminal activity. By November 15, the police released the labor leaders and did not pursue criminal charges. The SBSI leaders dropped their protests and demands against PT FMPI.

Thousands of employees from the state-owned aircraft manufacturer P.T. Dirgantara Indonesia held demonstrations in Bandung and Jakarta from July through October, following the company's announcement of a 6-month shutdown with reduced pay for 6,000 workers. Union leaders, supported by the Manpower Ministry, argued that the shutdown violated legal requirements for bipartite consultations with workers.

Since 1996, unions affiliated with the KSPSI could collect union dues directly through payroll deductions (the "check-off" system), rather than having the Manpower Ministry collect dues and transfer them to the KSPSI. Implementation of this system remained uneven. Unions other than the KSPSI alleged difficulties in having companies set up a check-off system for their members.

The police and military continued to intervene in labor matters, usually to protect employers' interests, although a shift away from open intervention and demonstrations of force by uniformed troops to less visible measures continued. In June, four police detectives in Surabaya allegedly abducted and beat three workers from the PT Maspion Company in an attempt to force them to confess to stealing company merchandise. The East Java police arrested the detectives following complaints from the workers. However, the police accepted an ILO worker rights training program initiated during this period.

Regional and national labor dispute resolution committees adjudicated charges of anti-union discrimination, and their decisions could be appealed to the State Administrative Court. However, due to a history of adverse decisions for labor and the long time necessary to process disputes, sometimes requiring years, many unions believed that these committees were not realistic alternatives for settling disputes. As a result, workers frequently presented their grievances directly to KOMNASHAM, the DPR, or NGOs. Administrative decisions in favor of dismissed workers usually took the form of monetary awards, but rarely reinstated workers. The law required that employers obtain the approval of the labor dispute resolution committee before firing workers, but employers often ignored the law in practice. On December 16, the DPR enacted the Labor Disputes Act, which mandates the establishment of substantially new dispute settlement procedures, including a system of labor courts. The ILO assisted the Government in the development of the Act.

There are seven bonded, or export processing zones (EPZs), in the country. The labor laws apply in EPZs, although nongovernmental observers believed there was stronger anti-union sentiment in EPZs. Working conditions in Batam's modern export electronics sector appeared better than the national average. In recent years, unions had increased success in organizing plants and negotiating with companies in the Batam EPZ. The Indonesian Metalworkers' Union (SPMI) succeeded in establishing a regional office and organizing some 7,000 workers in Batam during this period. However, trade unions in Batam raised concerns over insufficient wages, excessive overtime, and employer opposition to organizing efforts, including reprisals against workers who attempted to form unions.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced labor, and the Government generally enforced this prohibition. The law and regulations prohibit bonded labor by children. However, the Government was not effective in eliminating forced child labor, which remained a serious problem (see Section 6.d.).

According to the NGO KOPBUMI, approximately 3 million citizens worked overseas, mainly in the Middle East and Malaysia. There were many incidents in which

these migrant workers, most of whom occupied low skilled positions, received insufficient protection from the Government and host governments. The Government, through its diplomatic posts, established shelters in a few overseas locations, and the Government also funded the repatriation of several hundred workers who fled employers in the Middle East and Malaysia. The unscrupulous practices of migrant worker recruiting agencies, or Perusahaan Jasa Tenaga Kerja Indonesia (PJTKI), and poor government regulation, led to abuses of workers, including situations of debt bondage. According to press reports and research by the Solidarity Center, recruiting agencies frequently held migrant workers in holding centers for months at a time before sending them abroad. During their stay at holding centers, migrant workers normally did not receive pay and recruiters often did not allow them to leave the centers. In most instances, workers were forced to pay recruiters for the cost of their forced stay, resulting in large debts to the recruiters.

During the year, the Manpower Ministry revoked the licenses of 17 labor export companies for violating procedures in the placement of workers overseas including some that contributed to the abuse of migrant workers.

A Home Affairs Ministry decree requires that migrant workers sign an agreement not to disclose difficulties encountered abroad, and, in practice, the Government restricted the ability of migrant workers to speak about abuses they faced overseas.

Forced labor and debt bondage also was an issue in the informal sector. Private employers, within the country and abroad, at times forced household help to work without pay, for extremely low wages, or in situations of debt bondage. NGOs and the press reported cases of employers locking domestic workers within homes and physically and sexually abusing them.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law prohibits children from working in hazardous sectors and the worst forms of child labor, to include mining, skin diving, construction, prostitution, and offshore fishing platforms; however, the Government did not enforce these laws effectively. Law, regulations and practice acknowledged that some children must work to supplement family incomes. The new Manpower Act prohibits the employment of children, defined as persons under 18, with the exception of those 13 to 15 years of age who may work no more than 3 hours per day and only under a number of other conditions, such as parental consent, avoidance of work during school hours, and payment of legal wages. The law does not appear to address exceptions for children ages 16 to 17.

The National Child Protection Act addresses economic and sexual exploitation, including child prostitution, child trafficking, and the involvement of children in the narcotics trade. The law provides severe criminal penalties and jail terms for persons who violate children's rights (see Section 5).

Child labor remained a serious problem in the country. An estimated 6 to 8 million children exceeded the legal 3-hour daily work limit, working in agriculture, street vending, mining, construction, prostitution, and other areas. More children worked in the informal, rather than the formal, sector. Some children worked in large factories, but their numbers were unknown, largely because documents verifying age could be falsified easily. Some employers hired children because they were easier than adults to manage and less likely to organize or make demands on employers. Children working in factories usually worked the same number of hours as adults. Children worked in industries, such as, rattan and wood furniture, garment, footwear, food processing, toy making, and in small-scale mining operations.

Many girls aged between 14 and 16 worked as live-in domestic servants. The ILO informally estimated that 700,000 children worked as servants, an estimate lower than reported in previous years by the National Committee for Child Protection. Many child servants were not allowed to study and were forced to work long hours, received low pay, and generally were unaware of their rights.

The law and regulations prohibit bonded labor by children; however, the Government was not effective in eliminating forced child labor, which remained a serious problem. A significant number of children worked against their will in prostitution, pornography, begging, drug trafficking, domestic servitude, and other exploitative situations, including a small number on fishing platforms. Two international NGOs estimated that there were 39,000 to 72,000 child prostitutes. A rapid assessment by the ILO produced a rough estimate of 21,000 child prostitutes on Java (home to 60 percent of the country's population). An ILO study indicated that, in cases of child prostitution in West Java, parents and other family members commonly were complicit in forcing children into prostitution. The NGO Bandungwangi reported that most child prostitutes in an area of East Jakarta originated from West Java and had been sold into prostitution by their parents.

Enforcement of child labor laws remained largely ineffective during the year. Despite legislative and regulatory measures, most children who worked, including as

domestics, did so in unregulated environments. Anecdotal evidence suggested that local labor officials carried out few child labor investigations. In an effort to address this, the ILO sponsored training of labor inspectors on child labor matters under the International Program on the Elimination of Child Labor (IPEC). The Solidarity Center also trained labor inspectors in the areas of child labor and trafficking. There were limited social programs to prevent exploitative child labor, usually conducted with international assistance.

The ILO carried out limited, rapid assessments of some of the worst forms of child labor. The assessments increased understanding of the extent of the worst forms of child labor. In May, the ILO conducted an extensive field study of the isolated, hazardous fishing platforms off the coast of North Sumatra and found only 10 child workers, a significant decline from previous years. The ILO, NGOs, and the Government took steps over a number of years that helped reduce the incidence of children working on fishing platforms. A related ILO study indicated that children working on fishing vessels was a greater problem.

e. Acceptable Conditions of Work.—Following the Government's implementation of wide-ranging decentralization in 2001, provincial and district authorities, not the central Government, established minimum wages, which vary by province, district, and sector. Provincial authorities determined provincial minimum wage levels based on proposals by tripartite (workers, employers, and government) provincial wage commissions. The provincial minimum wage rates establish a floor for minimum wages within the province. Local districts set district minimum wages, using the provincial levels as references. Districts also set minimum wages in some industrial sectors on an ad hoc basis. Provinces and districts conducted annual minimum wage rate negotiations, which often produced controversy and protests.

Nominal minimum wages rose significantly over the past several years, and on average increased 28 percent from 2001 to 2002. From 2002 to 2003, minimum wages increased more modestly in major industrial areas such as Jakarta (6.8 percent increase) and Batam (3.7 percent increase). Minimum wages (excluding industry specific wages) ranged from \$76 (631,554 rupiah) in Jakarta to only \$33 (274,000 rupiah) in the Trenggalek district in East Java. The minimum wage levels set by most local governments did not provide a worker and family with a decent standard of living. In many areas, legal minimum wages fell below the Government's own calculation of basic minimum needs.

Government enforcement of minimum wage regulations remained inadequate, particularly at smaller companies and in the informal sector. In practice, official minimum wage levels applied only in the formal sector, which accounted for just 35 percent of the workforce.

Labor law and ministerial regulations provide workers with a variety of benefits. Persons who worked at more modern facilities often received health benefits, meal privileges, and transportation. The law also requires employers to register workers with and pay contributions to the state-owned insurance agency JAMSOSTEK.

In January, workers and union officials complained that state-owned palm oil plantations in North Sumatra had not paid official minimum wages for tens of thousands of laborers and also failed to register these workers with JAMSOSTEK as legally mandated. A company representative reportedly told the press that the company was financially unable to comply with these measures. Separately, Manpower Ministry officials pointed out that minimum wage laws, like the new Manpower Act itself, did not apply to SOEs.

The law establishes a 40-hour workweek, with one 30-minute rest period for every 4 hours of work. The law also requires at least 1 day of rest weekly. The daily overtime rate was 1½ times the normal hourly rate for the first hour and double the hourly rate for additional overtime, with a maximum of 3 hours of overtime per day and no more than 14 hours in a week. Workers in industries that produced retail goods for export frequently worked overtime to meet contract quotas. Unions complained that companies relied upon excessive overtime in some electronics assembly plants, to the detriment of workers' health and safety. Observance of laws regulating benefits and labor standards varied between sectors and regions. Employer violations of legal requirements were fairly common and often resulted in strikes and employee protests. The Manpower Ministry continued to urge employers to comply with the law. However, in general, government enforcement and supervision of labor standards were weak.

Both law and regulations provide for minimum standards of industrial health and safety; however, in practice the country's worker safety record was poor. As revealed in press reports, JAMSOSTEK recorded 104,774 work-related accidents in 2001, 103,804 in 2002, and 51,528 in the first seven months of this reporting period. The ILO cited a National Health and Safety Council report that concluded only 80 of the country's 16,000 local companies had complied with safety regulations and re-

ceived zero accident certificates. The Council stated in 2002 that it did not have enough personnel to cover all enterprises and urged companies to be self-compliant.

In the country's larger registered companies, the quality of occupational health and safety programs varied greatly. Health and safety standards in smaller companies and in the informal sector tended to be weaker or nonexistent. Some foreign buyers effectively promoted worker health and safety improvements within the operation of their local suppliers. The limited number of qualified labor inspectors, corruption in the inspection system, and the low level of employee appreciation for health and safety practices severely hampered the enforcement of health and safety standards. Workers are obligated to report hazardous working conditions, and employers are forbidden by law from retaliating against those who do report hazardous working conditions; however, the law was not enforced effectively. As a result, workers who removed themselves from hazardous working conditions risked losing their jobs.

f. Trafficking in Persons.—There is no law that specifically prohibits trafficking in persons; however, trafficking in persons is criminalized under the Penal Code and the Child Protection Act. Persons were trafficked to, from, and within the country during the year for the purposes of prostitution and forced labor, including instances of debt bondage.

In December 2000, a National Action Plan to counter trafficking of women and children was approved by Presidential decree. It identifies specific roles for the Government and civil society at both the national and local levels, and includes goals for law-making and law enforcement. The Child Protection Act prohibits economic and sexual exploitation of children, and child trafficking. The Act specifies severe criminal penalties and jail terms for persons who violate children's rights, including trafficking in persons. The Government supported programs at two universities, in East and West Java, to develop specific anti-trafficking legislation. The Government completed the draft anti-trafficking bill during the year and began discussions on the bill with Parliament by year's end. The Government, with the help of NGOs, conducted public education efforts on trafficking, which included placing programming with TV and radio outlets.

The Criminal Code lacks an adequate legal definition of trafficking in persons. Two organizations, the Solidarity Center and the International Catholic Migration Commission (ICMC), identified articles of law that could be applied in cases of trafficking and related offenses. The Penal Code prohibits trade in women and male minors, but is silent on female minors. The Code provides for sanctions of up to 6 years in prison, whereas the Child Protection Act provides for stiffer penalties; however, police and prosecutors generally continued to use the Code against traffickers because they lacked familiarity with the relatively new Child Protection Act. Judges rarely sentenced traffickers to more than 3 years in prison.

The Government, NGOs, and international organizations were not able to compile statistics on the number of persons trafficked, and reliable figures were not available. A study by the Solidarity Center and ICMC arrived at boundary estimates of between 2.4 and 3.7 million women and children who worked in the vulnerable categories of migrant workers, sex workers, and child domestic workers. Within these categories, the total number of children ranged from 254,000 to 422,000. These were not estimates of victims, only of women and children vulnerable to trafficking. During the year, Indonesian women were trafficked to Malaysia, Japan, Saudi Arabia, United Arab Emirates, Taiwan, Hong Kong, Singapore, Australia, and other destinations.

The national police compiled statistics on trafficking cases. In 2001, the police investigated 178 cases of trafficking in women and children, and submitted 128 of these for prosecution. In the first 8 months of 2002, the police filed criminal charges in 155 cases, with 90 reaching the prosecutors. Preliminary figures for the year indicated a similar level of police investigations. By year's end, the Government at the national level had not reported statistics on prosecutions. Anecdotal evidence suggested that successful prosecutions were rare.

During the year, police arrested numerous traffickers. For example, in January, Jakarta police arrested two men for the attempted trafficking of young women to Malaysia. The Government initiated a joint operation with Malaysia that freed 24 Indonesian victims trafficked into prostitution in Sabah, Malaysia, and the police arrested two traffickers. In September, police arrested three suspected baby traffickers in Batam and charged them with violations under the Child Protection Act. Their cases were pending at year's end.

Prostitution was widespread and was a driving force behind trafficking in persons. Although the Government generally interpreted "crimes against decency/morality" as applicable to prostitution, the latter is not specifically mentioned in the Penal Code. The ICMC/Solidarity Center study estimated that there were between 130,000

and 240,000 sex workers in the country. Some NGOs claimed that the number was much higher. Researchers frequently found between 20 to 30 percent of sex workers to be underage. In May, an ILO rapid assessment conducted arrived at a very rough estimate of 21,000 child sex workers in Java, including 5,000 in Jakarta.

Commercial sexual exploitation of children continued to be a serious problem (see Section 5).

The Singkawang district of West Kalimantan remained well known as an area from which poor, Chinese-Indonesian women and teenage girls between the ages of 14 and 20 were recruited as "mail order" brides for grooms primarily in Taiwan but also in Hong Kong and Singapore. In some cases the women were trafficked for sex work and slavery-like servitude.

In many cases, traffickers recruited girls and women under false pretenses. One tactic was to offer young women in rural areas jobs as waitresses or hotel employees in distant regions, including island resorts. After the new recruits arrived and incurred debts to their recruiters, they learned they had been hired as prostitutes.

Many trafficking victims became vulnerable to trafficking during the process of becoming migrant workers. Many unauthorized recruiting agents operated throughout the country and were involved in trafficking to various degrees, and some government-licensed recruiting agents also were implicated in trafficking. Recruiting agents often charged exorbitant fees that led to debt bondage and recruited workers to work illegally overseas (see Section 6.c.), which increased their vulnerability to trafficking and other abuses.

Some women were trafficked overseas under the guise of cultural performers, particularly to Japan. An article in the August Tempo magazine indicated that there were several hundred Indonesian sex workers in Japan and concluded that many of them were tricked into the sex trade and subsequently unable to leave.

The basic 3-month course that all police officers received did not include training on counter-trafficking in persons. During the year, international agencies and a foreign government began to provide police with specific training with regard to trafficking. Trafficking falls under the purview of the Criminal Investigation Department (CID). The Police established a separate anti-trafficking unit within CID, with both operational and coordinating responsibilities. As a result, coordination within the police force and between the police and other interested departments on trafficking in persons improved during the year but often remained weak.

The national police headquarters issued new instructions to district police chiefs to break up trafficking rings, assist victims, and report cases to national headquarters. However, credible sources noted that individual security force members were involved in setting up and protecting brothels. Traffickers and brothel owners reportedly paid protection money to security force members. Apart from police and soldiers, some government officials allegedly were complicit in trafficking, particularly in the production of false documents. The prevalence and ease of obtaining fraudulent national identity cards, which could document children as adults, contributed to the trafficking problem. In some cases, law enforcement officials treated trafficked women and children as criminals. Within society and government, there was continued reluctance to acknowledge that prostitution was a major problem, despite frequent press reporting. Widespread and entrenched corruption contributed to trafficking.

Domestic NGOs, with international support, led efforts to monitor and prevent trafficking, frequently in coordination with government agencies. These NGOs included the Consortium for Indonesian Migrant Workers Advocacy (KOPBUMI), LBH-Apik, Women's Aid and Protection Group (DERAP), Women's Coalition (Koalisi Perempuan), and Solidaritas Perempuan.

In April, the Government co-hosted with Australia the Second Regional Ministerial Conference on Migrant Smuggling, Trafficking in Persons, and other Transnational Crimes. In June, the Government hosted the U.N. World Tourism Organization's Regional Consultation on the Protection of Children from Sexual Exploitation in Tourism. In July, the Government co-hosted the first National Conference on Trafficking in Women and Children with hundreds of participants from across the country. On July 23, President Megawati announced the launching of a national campaign to eliminate the sexual exploitation of children in tourist zones.

JAPAN

Japan is a parliamentary democracy based on its 1947 Constitution. Sovereignty is vested in the citizenry, and the Emperor is defined as the symbol of state. Executive power is exercised by a cabinet, composed of a prime minister and ministers

of state, which is responsible to the Diet, a two-house parliament. The Diet, elected by universal suffrage and secret ballot, designates the Prime Minister, who must be a member of that body. The most recent national elections were in November. The Liberal Democratic Party (LDP), the New Conservative Party, and the Komeito Party make up the current coalition Government headed by Prime Minister Junichiro Koizumi. The judiciary is generally independent.

The Self-Defense Forces are responsible for external security and have limited domestic security responsibilities. The well-organized and disciplined police force is effectively under the control of the civilian authorities. However, there continued to be credible reports that police committed some human rights abuses.

In spite of a lengthy economic downturn, the industrialized, free market economy continued to provide the approximately 127 million residents with a high standard of living and high levels of employment.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There continued to be credible reports that police and prison officials physically and psychologically abused prisoners and detainees. Violence against women and children, child prostitution, and trafficking in women were problems. Women, the Ainu (the country's indigenous people), the Burakumin (a group whose members historically were treated as outcasts), and alien residents experienced varying degrees of societal discrimination, some of it severe and longstanding. According to Ministry of Justice figures, Legal Affairs Bureau offices and civil liberties volunteers dealt with 382,952 human rights-related complaints during 2002. Also during 2002, the Regional Legal Affairs Bureaus and the District Legal Affairs Bureaus received reports of 18,517 suspected human rights violations. However, staffing constraints and limited legal powers kept the administrative system for combating human rights violations weak, and many of these cases were ultimately resolved in the courts.

RESPECT FOR HUMAN RIGHTS

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

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

In 2002, a 49-year-old male inmate at Nagoya Prison died after guards, as a disciplinary measure, severely tightened around his abdomen a restraining device used to secure leather handcuffs in which his arms were locked, and then placed him in solitary confinement (see Section 1.c.). In 2001, two Nagoya Prison guards reportedly sprayed a high-power water hose at an “unruly” inmate, severely lacerating his rectum and colon. Despite surgery to repair the damage, the inmate died of an infection the following day. Prosecutors demanded a 2-year sentence for the Deputy Chief Prison Guard, who was involved in both cases. At year's end, seven other prison guards indicted on charges of inmate abuse awaited sentencing. In November, family members of a deceased prisoner and three former inmates sued the Government for abuses suffered in Nagoya Prison between 2001 and 2002. At year's end, the trial was still underway.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and the Penal Code prohibits violence and cruelty toward suspects under criminal investigation; however, reports by several bar associations, human rights groups, and some prisoners indicated that police and prison officials sometimes used physical violence, including kicking and beating, as well as psychological intimidation, to obtain confessions from suspects in custody or to enforce discipline. The National Police Law permits persons to lodge complaints against the police with national and local public safety commissions. These commissions may direct the police to conduct investigations. However, public confidence in the system remained low, and allegations persisted that the police and the public safety commissions remained lax in investigating charges of police misconduct.

The Constitution and the Criminal Code include safeguards to ensure that no criminal suspect can be compelled to make a self-incriminating confession or be convicted or punished in cases where the only evidence against the accused is his own confession. The appellate courts overturned some convictions in recent years on the grounds that they were obtained as a result of coerced confessions. In addition, civil and criminal suits alleging abuse during interrogation and detention have been brought against some police and prosecution officials.

Approximately 90 percent of all criminal cases going to trial included confessions, reflecting the priority the judicial system placed on admission of guilt. Confession was regarded as the first step in the rehabilitative process. The Government main-

tained that the high percentage of confessions, like the high conviction rate, was reflective of a higher standard of evidence needed to bring about indictment in the judicial system. However, Amnesty International pointed out that the confession-based system allows for incommunicado detention for up to 23 days, prolonged interrogations, and harsh psychological conditions.

A 2001 case of a prison death (see Section 1.a.) made public early in 2003 sparked a broad investigation into the prison system. Two other cases of abuse involving Nagoya Prison guards were reported in 2002. Eight guards were indicted for causing serious internal injuries to one prisoner and fatally injuring another using a restraining device consisting of a leather belt with attached leather manacles.

The Justice Ministry formed a special team to investigate 1,566 prisoner deaths from 1993 to 2002. A preliminary report suggested that nearly one-third of the cases involved suspicious circumstances. However, in June, the Ministry announced that there was evidence of abuse only in the two Nagoya fatalities. Regarding the other suspicious deaths, the Ministry said that approximately 10 deaths could be attributed to poor medical care. The authorities reported they had lost the documentation on nine deaths in Tokyo's Fuchu Prison. The remaining deaths were determined to be "not suspicious."

During the year, the Minister of Justice formed a Prison Reform Committee, which banned the use of the leather restraining device for a 6-month period until an appropriate substitute could be identified. During the 6 months, correctional facilities were obligated to inform the Ministry when they intended to use the device and to videotape the prisoners during its use. The committee also required prison officials to keep records of death for 10 years, instead of 3, and worked to develop a system that would allow prisoners to complain of mistreatment without fear of retribution. In May, the Minister formed a subcommittee to improve prison medical facilities.

Prison conditions met international standards. However, prisons in most areas of the country were not heated, and prisoners were given only minimal additional clothing to protect themselves against cold weather. There have been cases of frostbite among the prison population in recent years. In 2001, the Ministry of Justice requested funding for a 3-year plan to install heaters in prison buildings nationwide. Individual cells remained unheated. Prisoners were not allowed to purchase or receive supplementary food. The authorities read letters to and from prisoners, and some letters were censored, or, with a court order, confiscated. All visits with convicted prisoners were monitored; however, those prisoners whose cases were pending were allowed private access to their legal representatives. The Justice Ministry is not required to inform a condemned inmate's family prior to the person's execution. Human rights organizations reported that lawyers also were not told of an execution until after the fact, and that death row prisoners were held for years in solitary confinement with little contact with anyone but prison guards. Parole may not be granted for any reason, including medical and humanitarian reasons, until an inmate has served two-thirds of his or her sentence.

The Japanese Federation of Bar Associations and human rights groups have criticized the prison system, with its emphasis on strict discipline and obedience to numerous rules. Prison rules remained confidential. Wardens continued to have broad leeway in enforcing punishments selectively, including "minor solitary confinement," which may be imposed for a minimum of 1 and not more than 60 days during which the prisoner is made to sit (for foreigners) or kneel (for citizens) motionless in the middle of an empty cell.

In December, an advisory panel to the Justice Minister submitted a proposal to revise the 95-year-old Prison Law. The proposal calls for the establishment of a non-governmental "watchdog" group to protect prisoners' rights and consider petitions about possible mistreatment; greater flexibility and transparency in prison operations; increased visitation and communications with families and acquaintances; improved medical facilities; regulations on punitive confinement; and increased prison staff. The Ministry of Justice is expected to submit new legislation, or an amendment to the current Prison Law, to the Diet by 2005.

Women and juveniles were housed in separate facilities from men; at times during the year, some women's detention facilities were operating over stated capacity. Pre-trial detainees were held separately from convicted prisoners (see Section 1.d.).

Conditions in Immigration detention facilities met international standards.

The Government restricted access to prisons by human rights groups.

d. Arbitrary Arrest, Detention, or Exile.—Constitutional provisions for freedom from arbitrary arrest or imprisonment generally were respected in practice. The law provides for judicial determination of the legality of detention. Persons may not be detained without charge, and prosecuting authorities must be prepared to demonstrate before trial that probable cause exists to detain the accused. Under the law,

a suspect may be held in detention at either a regular detention facility or “substitute” (police) detention facility for up to 72 hours. A judge must interview suspects prior to detention. A judge may extend preindictment custody by up to 2 consecutive 10-day periods based on a prosecutor’s application. These extensions were sought and granted routinely. Under extraordinary circumstances, prosecutors may seek an additional 5-day extension, bringing the maximum period of preindictment custody to 28 days.

The National Police Safety Commission oversees the National Police Agency (NPA), which has six internal bureaus: the Secretariat, the Administration Bureau, the Criminal Investigation Bureau, the Traffic Bureau, the Security Bureau, and the Communications Bureau; and regional bureaus in Shikoku, Kyushu, Tohoku, Kanto, Chubu, Kinki, and Chugoku. The Tokyo Metropolitan Police Communications Division and the Hokkaido Prefecture Police Communications Division function as local units with more autonomy than the units under regional jurisdictions. In addition, each prefecture has a prefectural police safety commission as well as a prefectural police agency, which is primarily funded by the prefecture’s budget. There were approximately 15,000 koban (police boxes) located throughout the country. Corruption and impunity were not problems within either the national or the prefectural police forces.

Under the Criminal Procedure Code, police and prosecutors have the power to control or limit access by legal counsel when deemed necessary for the sake of an investigation. Counsel may not be present during interrogations at any time before or after indictment. As a court-appointed attorney is not approved until after indictment, suspects must rely on their own resources to hire an attorney before indictment, although local bar associations provided detainees with limited free counseling. Critics charged that access to counsel was limited both in duration and frequency; however, the Government denied that this was the case.

Critics charged that allowing suspects to be detained by the same authorities who interrogated them heightened the potential for abuse and coercion. The Government countered that cases sent to police detention facilities tended to be those in which the facts were not in dispute. A Justice Ministry regulation permits detention house officials to limit the amount of documentation related to ongoing court cases retained by prisoners.

The length of time before a suspect was brought to trial depended on the nature of the crime but rarely exceeded 3 months from the date of arrest; the average was 1 to 2 months.

The law does not permit forced exile, and it was not used.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The Cabinet appoints judges for 10-year terms, which can be renewed until judges reach the age of 65. Justices of the Supreme Court can serve until the age of 70 but face periodic review through popular referendums.

There are several levels of courts, including high courts, district courts, family courts, and summary courts, with the Supreme Court serving as the final court of appeal. Normally a trial begins at the district court level, and a verdict may be appealed to a higher court, and ultimately, to the Supreme Court.

The Government generally respected in practice the constitutional provisions for the right to a speedy and public trial by an impartial tribunal in all criminal cases. Although most criminal trials were completed within a reasonable length of time, cases may take several years to work their way through the trial and appeals process. In July, the Diet passed legislation aimed at reducing the average time required to complete criminal trials and civil trials that include witness examination. Its provisions include hiring substantial numbers of additional court and Justice Ministry personnel, revising bar examinations, establishing new graduate law schools to increase the overall number of legal professionals three-fold by 2010, and requiring that courts and opposing litigants jointly work to improve trial planning by allowing for earlier evidence collection and disclosure. The advisory panel on judicial reform released the official standards for setting up graduate law schools, and, in November, an education ministry panel approved 66 schools’ programs to establish the country’s first law schools in the spring of 2004. The first common admission exam was administered on August 31. In 2002, the Ministry of Justice, the Supreme Court, and the Japan Bar Association agreed to set up a new bar examination system by 2010. On July 16, a law took effect, which makes the Supreme Court responsible for accelerating proceedings in lower courts, imposes a 2-year time limit for courts to bring criminal and civil trials to conclusion, and requires the Government to take the legal and financial measures necessary to accomplish these goals.

In the extraordinary case of the Aum Shinrikyo 1995 sarin gas attack on the Tokyo subway system, the leader of the cult, Chizuo Matsumoto, and his follower,

Masami Tsuchiya, who is charged with making the sarin, await a ruling on sentencing, which is scheduled for February 2004 (see Section 2.c.). The other accused persons have been tried, and those convicted have been sentenced.

There is no trial by jury. The defendant is informed of the charges upon arrest and is assured a public trial by an independent civilian court with defense counsel and the right of cross-examination. However, in 2001 the Government's Judicial Reform Council recommended that randomly chosen members of the public be allowed to participate in determining rulings and penalties in criminal trials by deliberating the cases alongside professional judges. The Diet enacted implementing legislation in 2001, with the aim of adopting all of the advisory panel's reform proposals by 2004.

The defendant is presumed innocent. The Constitution provides defendants with the right not to be compelled to testify against themselves as well as to free and private access to counsel; however, the Government contended that the right to consult with attorneys is not absolute and can be restricted if such restriction is compatible with the spirit of the Constitution. Access sometimes was abridged in practice; for example, the law allows prosecutors to control access to counsel before indictment, and there were allegations of coerced confessions (see Sections 1.c. and 1.d.). Defendants are protected from the retroactive application of laws and have the right of access to incriminating evidence after a formal indictment has been made. However, the law does not require full disclosure by prosecutors, and material that the prosecution does not use in court may be suppressed. Critics claimed that legal representatives of defendants did not always have access to all needed relevant material in the police record to prepare their defense. A defendant who is dissatisfied with the decision of a trial court of first instance may appeal to a higher court.

No guidelines mandate the acceptable quality of communications between judges, lawyers, and non-Japanese speaking defendants, and no standard licensing or qualification system for certifying court interpreters exists. In 2000, the Supreme Court introduced a training system to help court interpreters understand complicated trial procedures. A trial may proceed even if the accused does not understand what is happening or being said. Foreign detainees frequently claimed that police urged them to sign statements in Japanese that they could not read and that were not translated adequately.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The Constitution protects the right to privacy of family, home, and correspondence, and the Government generally respected these rights in practice. Under the Constitution, each search or seizure must be based on a separate warrant issued by a judge. Standards for issuing such warrants exist to guard against arbitrary searches. The law allows law enforcement authorities, after obtaining a court warrant, to use wiretaps in certain criminal investigations, including suspected drug offenses, murder, and trafficking in persons if law enforcement officials can demonstrate that all other investigative techniques have been ineffective. The law also stiffened penalties for unauthorized use of wiretaps by police authorities.

In 2002, the Defense Agency confirmed reports that it had violated a law protecting personal information when it compiled lists of citizens seeking official documents. This inspired public debate on a privacy bill, which passed the Diet on May 23.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

In July, the Diet passed legislation prohibiting the solicitation of sex from minors through the Internet (see Section 5). The Japan Internet Providers Association and the Telcom Services Association expressed concerns about the definitions of child-prohibited sites and about the actions providers are required to take to prevent illegal use of Internet sites.

Academic freedom was not restricted. The Science, Technology and Education Ministry's authority to order revisions to elementary, middle, and high school textbooks based on national curriculum guidelines remained a source of domestic and international controversy.

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

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

The Government does not require that religious groups be licensed. However, to receive official recognition as a religious organization, which brings tax benefits and other advantages, a group must register with local or national authorities as a “religious corporation.” In practice, almost all religious groups were registered.

Aum Shinrikyo, the religious group responsible for the 1994 sarin gas attack in Matsumoto and the 1995 sarin attacks in the Tokyo subway, lost its status as a religious organization in 1996. In 2000, the group, which is considered a terrorist organization, changed its name to Aleph. In April, prosecutors demanded the death penalty for its leader, Chizuo Matsumoto, for his involvement in the gas attacks, as well as several previous counts of abduction and murder. The ruling is scheduled for February 2004. Matsumoto and Tsuchiya will be the last of 192 Aum members tried and sentenced in connection with crimes committed by the group. Because the group is still considered dangerous, in April the Public Security Investigation Agency extended surveillance of the group for an additional 3 years.

Members of the Unification Church and Jehovah’s Witnesses alleged that police did not act in response to allegations of forced deprogramming of church members. They also claimed that police did not enforce the laws against kidnapping when the victim was held by family members, asserting that Unification Church members were subjected to prolonged arbitrary detention by individuals, who were not charged by police.

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

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

Citizens have the right to travel freely both within the country and abroad, to change their place of residence, to emigrate, and to repatriate voluntarily. Citizenship may be forfeited by naturalization in a foreign country or by failure of persons born with dual nationality to elect citizenship at the required age.

The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government provided protection against refoulement, but did not routinely grant refugee or asylum status. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government requires applicants to appear at an Immigration office within 60 days of arrival or within 60 days of learning that they are likely to be persecuted in their home country. Individuals who do not present their applications within the 60-day time frame due to extenuating circumstances may apply for an exception. However, the UNHCR estimated that approximately 50 percent of applicants were rejected for failing to meet the 60-day application deadline. An alien recognized as a refugee has access to educational facilities, public relief and aid, and social welfare benefits.

In 2002, North Korean nationals attempting to claim political asylum were stopped and arrested by Chinese security officials inside the Japanese Consulate General in Shenyang, China. The public scrutiny and criticism resulting from the incident led the Government to reexamine its refugee policy. In November 2002, a Ministry of Justice advisory group proposed that the 60-day application deadline be extended to either 6 months or a full year; however, by year’s end, no extension had been put into effect. In an effort to make procedures clearer to applicants, the Government distributed a pamphlet in English, Chinese, and eight other languages to those interested in the asylum process.

In recent years, the Government has granted refugee and asylum status to those claiming fear of persecution in only a small number of cases. A nongovernmental organization (NGO), in a statement to the U.N. Subcommission on Protection and Promotion of Human Rights, noted that from 1982 to December 2002, 301 persons were accepted as refugees. The Government considered that most persons seeking asylum in the country did so for economic reasons. In 2002, 250 persons sought asylum and the Government recognized 14 refugee cases. According to UNHCR, most new applicants were from Burma, China, Pakistan, Turkey, Afghanistan, and Iran.

In March, the Cabinet approved a bill allowing the Justice Minister to issue temporary-stay permits to asylum seekers who meet designated criteria. The Minister may also grant special permits on a case-by-case basis for those who do not meet the qualifications. Once refugee applications are approved, the Minister may also grant resident status. At year’s end, the bill was awaiting Diet approval.

Beginning in January, the Immigration Bureau began to give detailed, written explanations of decisions not to grant refugee status to asylum-seekers and, on a trial basis, opened an information office at Narita Airport for potential asylum seekers.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The country is a parliamentary democracy governed by the political party or parties able to form a majority in the lower house of its bicameral Diet. The Liberal Democratic Party and the Komeito Party formed the existing coalition government. Except for a brief hiatus in the 1990s, the LDP has been the dominant party in every government since the mid-1950s.

In recent years, the numbers of women holding public office has slowly increased. At year's end, women held 34 seats in the 480-member lower house of the Diet, and 38 of the 247 seats in the upper house. There were 3 women in the 18-member Cabinet. Four of the country's 47 governors were women; the female Governors of Osaka and Kumamoto were elected in 2000, a third was elected in Chiba in 2001, and a fourth in Hokkaido in April. Women accounted for 5.8, 10.8 and 4.9 percent of the elected members of prefectural, municipal, city and town assemblies respectively.

No figures were available at the national level regarding minority political participation.

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

A number of local and international human rights organizations functioned freely, without governmental restrictions, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views, although the Government restricted access by human rights groups to prisons and Immigration detention facilities (see Section 1.c.).

The Justice Ministry's Council for Human Rights Promotion, an advisory panel, continued to work on a 5-year mandate to develop measures to educate citizens about the importance of respecting human rights. In 2001, the Council submitted a final set of recommendations that included the establishment of a human rights commission to provide relief through arbitration and administrative guidance to victims of social and racial discrimination, domestic violence, and human rights violations committed by public authorities and members of the media (the recommendations cited breaches of privacy, defamation, and "obstruction of a peaceful private life" as potential human rights violations by the mass media and Internet users). The report recommended that the proposed body be granted investigative powers, but it also recommended that its secretariat be established through a reorganization of the Justice Ministry's existing Civil Liberties Bureau. At year's end, this legislation was still under consideration in the Diet.

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

The Constitution prohibits discrimination on the basis of race, creed, gender, social status, or family origin, and the Government generally respected these provisions.

Women.—Violence against women, particularly domestic violence, often went unreported due to social and cultural concerns about shaming one's family or endangering the reputation of one's spouse or children. Consequently, National Police Agency statistics on violence against women probably understated the magnitude of the problem. The law allows district courts to impose 6-month restraining orders on perpetrators and to sentence violators to up to 1 year in prison or fines of up to \$7,910 (1 million yen). In addition, the law covers common-law marriages and divorced individuals; it also encourages prefectures to expand shelter facilities for domestic abuse victims and stipulates that local governments offer financial assistance to 40 private institutions already operating such shelters. NPA statistics reported 2,357 rapes and 9,476 indecent assaults in 2002. Husbands have been prosecuted for spousal rape; usually these cases involved a third party who assisted in the rape.

Many local governments responded to the need for confidential assistance for abused women by establishing special women's consultation departments in police and prefectural offices. In 2002, police received 21,696 stalking complaints, arrested 178 persons, and issued 965 warnings.

Local governments and private rail operators continued to implement measures designed to address the widespread problem of groping and molestation of female commuters. Several railway companies have introduced women-only rail cars on

various trains, and the Tokyo Metropolitan Assembly revised its anti-groping ordinance to make first-time offenders subject to imprisonment.

Trafficking in women was a problem (see Section 6.f.). Prostitution is illegal, but it occurs.

The Constitution and the Equal Employment Opportunity (EEO) Law prohibit sexual discrimination; however, sexual harassment in the workplace remained widespread. The National Personnel Authority established workplace rules in an effort to stop harassment in public servants' workplaces. A 1999 revision to the EEO Law includes measures to identify companies that fail to prevent sexual harassment, but it does not include punitive measures to enforce compliance, other than allowing names of offending companies to be publicized. A number of government entities have established hot lines and designated ombudsmen to handle complaints of discrimination and sexual harassment. The Labor Standards Law forbids wage discrimination against women.

Women make up 40.5 percent of the labor force, and women between the ages of 15 and 64 have a labor force participation rate of 48.5 percent. Although the Labor Standards and the EEO laws prohibit wage discrimination against women, in 2002, female workers on average earned only 66.5 percent of average male earnings. Much of this disparity resulted from the "two-track" personnel administration system found in most larger companies under which new hires were put into one of two categories: Managerial track, in which those engaged in planning and decision making jobs had the potential to become top executives, and general track, in which employees engaged in general office work. In 2002, the Supreme Court mediated a settlement to a 1987 lawsuit in which 13 female employees had sued the Shiba Shinkin Bank over discriminatory salary and promotion policies. As a result of the mediation, six retired plaintiffs were retroactively promoted to section chief and paid lost wages worth \$1.86 million. Of the seven employed plaintiffs, six received immediate promotions to become section chiefs and one was guaranteed a chance to take the promotion exam.

Advocacy groups for women and persons with disabilities continued to press for a government investigation, a formal government apology, and compensation for sterilizations that were carried out between 1949–92.

The Asian Women's Fund (AWF) is a private, government-sponsored fund established to "extend atonement and support" to former "comfort women" (as many as 200,000 women, including Koreans, Filipinos, Chinese, Indonesians, Dutch, and Japanese, forced to provide sex to soldiers between 1932–45). The AWF supported three types of projects: Payments to individual victims; medical and welfare assistance to individual comfort women; and funding projects to improve the general status of women and girls. At the close of 2002, the AWF had collected donations totaling approximately \$4.91 million (590 million yen) and given lump sum payments of almost \$4.75 million (570 million yen) as well as letters of apology signed by the Prime Minister to more than 285 women from the Philippines, Korea, and Taiwan. These women also received medical and welfare assistance from the AWF. The Government's refusal to pay direct compensation continued to draw international criticism.

Children.—The Government is committed to children's rights and welfare, and in general the rights of children were protected adequately. Boys and girls have equal access to health care and other public services. Education is free and compulsory through the lower secondary level (age 14, or ninth grade). Education was available widely to students who met minimum academic standards at the upper secondary level through the age of 18. Society places an extremely high value on education, and enrollment levels for both boys and girls through the free upper secondary level (to age 18) exceeded 96 percent.

Public attention was focused increasingly on reports of frequent child abuse in the home. The law grants child welfare officials the authority to prohibit abusive parents from meeting or communicating with their children. The law also bans abuse under the guise of discipline and obliges teachers, doctors, and welfare officials to report any suspicious circumstances to 1 of the 182 nationwide local child counseling centers or to municipal welfare centers. In May, the Ministry of Health, Labor, and Welfare reported that 108 children have died of abuse since the November 2000 enactment of the Child Abuse Prevention Law. From April 2002 to March, there were 23,738 cases of child abuse, 8,940 of which were considered neglect.

Incidents of violence in schools and severe bullying ("ijime") also continued to be a societal and government concern. An Education, Culture, Sports, Science, and Technology Ministry survey released in 2002 reported 33,765 cases of violence by students in public schools during the 2001–02 academic year, an 11.7 percent decrease from the previous year. The Ministry attributed the decrease to its policy of suspending children with behavioral problems and increasing coordination with the police. Student-on-student violence accounted for 50 percent of the violence by stu-

dents in public schools. As for bullying, the number of cases in 2002–03 decreased 11.3 percent from the previous year to 22,207 cases. The Ministry of Justice's Office of the Ombudsman for Children's Rights provided counseling services for children 18 years of age and younger who have been victims of bullying.

In previous years, both the Government and society in general appeared to take a lenient attitude toward teenage prostitution and dating for money (which sometimes but not always involved sexual activity). However, in July, the Diet passed a law criminalizing the use of the Internet for child pornography and prostitution (see Section 2.a.). According to the NPA, the police arrested 1,366 persons in 2002 for crimes involving teenage prostitution and child pornography, a 340-person increase over 2001. However, teenage prostitution, dating for money, and child pornography continued to be problems.

Children can be held criminally responsible for their actions at age 14. Under juvenile law, juvenile suspects are tried in family court and have the right of appeal to an appellate court. Family court proceedings are not open to the public, a policy that has been criticized by family members of juvenile crime victims. During the year, the number of juveniles who committed penal code offenses was up 2.3 percent according to the NPA. For the last several years, juvenile crime has shown a trend toward more serious offenses such as murder, robbery, arson, and rape.

The Tokyo prefectural government continued programs to protect the welfare of stateless children, whose births their illegal immigrant mothers had refused to register for fear of forcible repatriation. According to Justice Ministry statistics, 720 stateless minors under the age of 5 were in the country in 2000.

Persons with Disabilities.—There were an estimated 3.2 million persons over the age of 18 with physical disabilities and roughly 2 million persons with mental disabilities. Although not generally subject to overt discrimination in employment, education, or in the provision of other state services, persons with disabilities faced limited access to public transportation, “mainstream” public education, and other facilities. The Deliberation Panel on the Employment of the Handicapped, which operates within the Ministry of Labor, has mandated that private companies with 300 or more employees hire a fixed minimum proportion of persons with disabilities. The penalty for noncompliance is a fine. In 2001, the Diet amended 27 laws that had banned the blind, deaf, and those with mental disabilities from working as doctors, dentists, nurses, and pharmacists, and the Health, Labor, and Welfare Ministry started awarding licenses for these professions on a case-by-case basis.

The law does not mandate accessibility to buildings for persons with disabilities; however, the law on construction standards for public facilities allows operators of hospitals, theaters, hotels, and similar enterprises to receive low-interest loans and tax benefits if they build wider entrances and elevators to accommodate persons with disabilities. In 2000, the barrier-free transportation law took effect, requiring public transport systems to take measures to make their facilities more accessible to persons with disabilities as well as to the elderly. In November 2002, the Tokyo District Court declared unconstitutional the Public Offices Election Law, which did not exempt persons with severe physical disabilities from the requirement to handwrite the name of the candidate on the ballot when voting by mail. Three Tokyo residents who suffered from Lou Gehrig's disease, a condition that left them unable to write, had brought the case.

The Law to Promote the Employment of the Handicapped includes those with mental disabilities. The law also loosened the licensing requirements for community support centers that promote employment for persons with disabilities, and it introduced government subsidies for the employment of persons with mental disabilities in part-time jobs. Despite the enactment of this law, Health, Labor, and Welfare Ministry data showed that during fiscal year 2001, the number of persons with disabilities fired from their jobs reach a record high of 4,017, a 1.6-fold increase from the previous year, significantly higher than the 1.2-fold increase recorded for the general population. The Headquarters for Promoting the Welfare of Disabled Persons, set up by the Prime Minister's Office, in previous years recommended that municipalities draw up formal plans for the care of citizens with disabilities. The Ministry of Health and Welfare has instructed local governments to set numerical targets for the number of home help providers and care facilities allocated to persons with disabilities. In 2000, 74.9 percent of municipalities had formal care plans for citizens with disabilities. In 2001, the Government abolished Medical Service Law provisions that had exempted mental hospitals from minimum staffing guidelines; however, reports of understaffing persisted.

Indigenous People.—The Ainu are a people descended from the first inhabitants of the country. Under an 1899 law, the Government pursued a policy of forced assimilation, imposing mandatory Japanese-language education and denying the Ainu

their right to continue traditional practices. The law also left the Ainu with control of approximately 0.15 percent of their original land holdings and empowered the Government to manage communal assets.

After a 1997 court ruling, the Diet passed a law that recognized the Ainu as an ethnic minority, required all prefectural governments to develop basic programs for promoting Ainu culture and traditions, canceled previous laws that discriminated against the Ainu, and required the Government of Hokkaido to return Ainu communal assets. However, the law stopped short of recognizing the Ainu as the indigenous people of Hokkaido, failed to address whether they deserved special rights as a distinct ethnic group, and did not mandate civil rights protection for the Ainu. A nonbinding accompanying resolution referred to the Ainu as a legal minority. The U.N. Special Rapporteur to the U.N. Working Group on Indigenous Populations stated that the Ainu never had entered into a consensual juridical relationship with any state and stated that the lack of such an agreement deprived them of their rights. Many Ainu criticized the Law to Promote Ainu Culture for not advancing Ainu political rights and criticized the Government for not providing funds for non-cultural activities that would improve Ainu living conditions or financial status. The Japan Ainu Association, a nationwide organization of Ainu, lobbied the Government for economic assistance and greater social welfare benefits. According to a 1999 survey, 37.2 percent of Ainu received welfare benefits, roughly double the regional average of 18.4 percent.

Although Ainu-language newspapers, radio programs, and academic programs studying Ainu culture have increased, the Ainu continued to face societal discrimination. In 2001, the U.N. Committee on the Elimination of Racial Discrimination (CERD) noted that the country “has not taken sufficient steps to address the issue of discriminatory treatment of Koreans and Ainu living in” the country. Also in 2001, several nongovernmental groups protested the Government’s failure to note continuing social and economic discrimination faced by the Ainu in its 2000 report to the CERD.

National/Racial/Ethnic Minorities.—Burakumin, Koreans, and alien workers experienced varying degrees of societal discrimination, some of it severe and longstanding.

The approximately 3 million Burakumin (descendants of feudal era “outcasts” who practiced “unclean” professions such as butchering and undertaking), although not subject to governmental discrimination, frequently were victims of entrenched societal discrimination, including restricted access to housing and employment opportunities. In 2002, as a result of the expiration of the Special Measures Law for Community Investment, Burakumin relief funds were cut to \$408.3 million (49 billion yen) from the previous level of \$875 million (105 billion yen), and the number of Burakumin-related projects was cut from 1,700 to 1,000. A 2001 working paper commissioned by the U.N. Human Rights Commission’s Subcommission on the Promotion and Protection of Human Rights acknowledged that the living standards of the Buraku had improved but noted that discrimination in marriage and employment continued.

According to the Ministry of Justice, there were nearly 1.85 million legal foreign residents as of 2002. The largest group, at approximately 625,422, was ethnic Koreans, followed by Chinese, Brazilians, and Filipinos. The number of Korean residents has been decreasing steadily since 1991 as Korean nationals have naturalized or married Japanese, which allows their children to gain citizenship automatically. Despite improvements in legal safeguards against discrimination, Korean permanent residents (most of whom were born, raised, and educated in Japan) were subject to various forms of deeply entrenched societal discrimination. In 2001, two associations representing Korean residents in the country lodged protests against the Public Security Investigative Agency (PSIA) and the Kyoto municipal government when media reports revealed that the PSIA had investigated over 200 persons of Korean ancestry under the Subversive Activities Prevention Law. Harassment and threats against pro-North Korean organizations and persons reportedly have increased since the 2002 admission by North Korea that it had kidnapped more than a dozen Japanese citizens.

Other foreigners also were subject to discrimination. There was a widespread perception among Japanese nationals that foreigners commit many crimes. In 2001, non-Japanese residents of Nagano Prefecture petitioned the governor to remove posters issued by the Nagano Prefectural Police and the Japan Crime and Fire Prevention Communication Association that depicted foreigners committing crimes. Also in 2001, as a result of widespread media attention, appeals by the Justice Ministry, and an anti-discrimination campaign waged by NGOs, several businesses in Hokkaido lifted their bans against foreigners. In 2001, Hokkaido police investigated death threats made against a foreign-born naturalized citizen who had sued a bath-

house for refusing him entrance on the basis of race and the Otaru Municipal Government for failing to take measures to stop discriminatory entrance policies. In November 2002, the Sapporo District Court ordered the bathhouse to pay the plaintiff \$25,000 (3 million yen) for subjecting the plaintiff to racial discrimination. The court rejected the claim against the Otaru Municipal Government, saying that the International Convention on the Elimination of All Forms of Racial Discrimination does not require local governments to institute ordinances to stamp out discrimination.

By law, aliens with 5 years of continuous residence are eligible for naturalization and the simultaneous acquisition of citizenship rights, including the right to vote; however, in practice most eligible aliens choose not to apply for citizenship, in part due to fears that their cultural identity would be lost. Obstacles to naturalization included broad discretion available to adjudicating officers and great emphasis on Japanese-language ability. Naturalization procedures also required an extensive background check, including inquiries into the applicant's economic status and assimilation into society. Koreans were given the option of adopting a Japanese surname. The Government defended its naturalization procedures as necessary to ensure the smooth assimilation of foreigners into society. Alien permanent residents may live abroad for up to 4 or 5 years without losing their right to permanent residence in the country.

In 2000, the Supreme Court upheld Nagoya and Osaka High Court decisions rejecting appeals by Korean permanent residents demanding the right to vote in local elections. The courts have consistently ruled that limiting the vote to citizens is constitutional, but that the Diet could legislate suffrage for foreign residents. Such legislation was submitted to the Diet and remains under deliberation.

Under the School Education Law, all students attending Chinese, Korean, or other non-Japanese-language schools were not automatically eligible to take national university examinations. They were required to pass a state-run high school equivalency test to qualify for the examinations. However, in September, the School Education Law was amended to allow graduates of 21 non-Japanese language schools to become automatically eligible to take university entrance examinations. The amended law also enabled universities to set their admissions criteria at their own discretion. During the year, many national universities also admitted graduates of non-Japanese language schools other than the 21 schools included in the School Education Law amendment.

In 2000, a revised law to end the practice of fingerprinting permanent foreign residents went into effect. The Government established a family registry system similar to that used for citizens. Foreign residents still are required to carry alien registration certificates at all times, but the revised law reduces the penalties imposed on those found without documentation.

In 1996, the Home Affairs Ministry reversed the national policy of opposition to lifting the citizenship requirement for public servants. However, the Ministry instructed local governments to restrict noncitizens' access to jobs that involved the exercise of public authority and influencing of public opinion, and required local governments to state clearly which jobs were closed to noncitizens. Jobs considered off limits included tax collection, construction permit issuance, sanitation inspection, and firefighting.

According to a 1997 joint survey conducted by the All Japan Prefectural and Municipal Workers Union and the Korean Residents Association in Japan, 19.8 percent of local governments forbade hiring noncitizens.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right of workers to associate freely in unions. In 2002, approximately 10.8 million workers, 20.2 percent of all employees, belonged to labor unions. Unions were free of government control and influence. The Japanese Trade Union Confederation, which represented 6.8 million workers and was formed in 1989 through the merger of several confederations, was the largest labor organization.

Some public employees, including members of the Self-Defense Forces, police, and firefighters are not permitted to form unions or to strike. These restrictions have led to a long-running dispute with the International Labor Organization's (ILO) Committee on the Application of Conventions and Recommendations over the observance of ILO Convention 98 concerning the right to organize and bargain collectively. The Committee has observed that these public employees have a limited capacity to participate in the process of determining their wages and has asked the Government to consider measures it could take to encourage negotiations with public employees. The Government determines the pay of government employees based on a recommendation by the independent National Personnel Authority.

The law prohibits anti-union discrimination, and adequate mechanisms existed for resolving cases that occurred, including the reinstatement with back wages of any workers fired for union activities.

Unions were free to affiliate internationally and were active in international bodies, most notably the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively.—The Constitution provides unions with the right to organize, bargain, and act collectively. These rights were exercised freely, and collective bargaining was practiced widely. The annual “Spring Wage Offensive,” in which individual unions in each industry conduct negotiations simultaneously with their firms, involved nationwide participation. Management usually consulted closely with its enterprise union. However, trade unions were independent of management and aggressively pursued the interests of their workers. The right to strike, implicit in the Constitution, was exercised. During 2001, 29,101 workdays involving 223,144 employees were lost to strikes. The law prohibits retribution against strikers and is enforced effectively.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution provides that no person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited. Although children were not specified in the provision, this legal prohibition against forced or compulsory labor applies equally to adults and to children.

Former Allied prisoners of war and Chinese and Korean workers continued to press claims for damages and compensation for forced labor during World War II in Japanese civil courts, U.S. courts, and in complaints to the ILO. In January, a U.S. federal appeals court dismissed a number of lawsuits by former prisoners of war and civilians who alleged they had been forced to labor for private Japanese firms during World War II. In 2002, 15 Chinese men who were forced to work in coalmines during World War II appealed a decision handed down by the Fukuoka High Court that ordered Mitsui Mining Co., but not the Government, to pay them compensation. In late 2001, 18 Chinese men filed a law suit for damages against the Government and 2 major construction firms to seek compensation for their forced labor during World War II, seeking \$3.87 million (464.4 million yen) in damages and a public apology. In 2001, in two separate cases, the Tokyo and Kyoto District Courts ordered the Government to pay damages. In the first, compensation was ordered to the family of a Chinese man who died in hiding after escaping from a coalmine where he had been forced to work during World War II. In the second case, compensation was ordered to be paid to 15 survivors of a 1945 explosion that had killed 524 Koreans brought to the country as forced laborers. Both courts ruled that the Government had failed to ensure a safe return home for the laborers but rejected further compensation for their forced labor. In 2002, the Government appealed both rulings. An ILO committee has called on the Government to take additional measures to satisfy individual Chinese and Korean victims of forced labor during the war. In 2000, the Diet passed a law offering “condolence money” for foreign nationals killed or injured while serving with the Imperial forces in response to a 1998 Tokyo High Court recommendation. The Public Management Ministry began accepting applications for condolence money in 2001; the legislation provides for payments of \$33,333 (4 million yen) to seriously injured foreign national soldiers and \$21,667 (2.6 million yen) to the survivors of those foreign nationals killed in service. However, seriously injured Japanese veterans are eligible for \$632,761 (80 million yen) and a lifetime pension.

The AWF continued to support former comfort women, who were forced to provide sexual services to Japanese troops during World War II (see Section 5).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution bans the exploitation of children. Both societal values and the rigorous enforcement of the Labor Standards Law protect children from exploitation in the workplace. By law, children under the age of 15 may not be employed, and those under age 18 may not be employed in dangerous or harmful jobs. In 2001, the Labor Inspection Division of the Ministry of Labor, which vigorously enforces the Labor Standards Law, reported 18 instances of children under the age of 15 being employed and 25 instances of children under the age of 18 being employed in dangerous or harmful jobs.

e. Acceptable Conditions of Work.—Minimum wages are set on a regional (prefectural) and industry basis, with the input of tripartite (workers, employers, public interest) advisory councils. Employers covered by a minimum wage must post the concerned minimum wages, and compliance with minimum wages was considered widespread. Minimum wage rates including benefits, effective during 2002, ranged from \$18 (2,231 yen) per hour in Tokyo to \$11 (1,358 yen) in Aomori Prefecture and

were considered sufficient to provide a worker and family with a decent standard of living. The Labor Standards Law provides for a 40-hour workweek for most industries and mandates premium pay for hours worked over 40 in a week, or 8 in a day. However, labor unions frequently criticized the Government for failing to enforce maximum working hour regulations in smaller firms.

The Ministry of Labor effectively administered various laws and regulations governing occupational health and safety, principal among which is the Industrial Safety and Health Law. Standards were set by the Ministry of Labor and issued after consultation with the Standing Committee on Safety and Health of the Central Labor Standards Council. Labor inspectors have the authority to suspend unsafe operations immediately, and the law provides that workers may voice concerns over occupational safety and remove themselves from unsafe working conditions without jeopardizing their continued employment.

Activist groups claimed that employers exploited or discriminated against foreign workers, who often had little or no knowledge of the Japanese language or their legal rights. The Immigration Bureau of the Justice Ministry estimated that as of January, there were approximately 220,000 foreign nationals, primarily from South Korea, the Philippines, China, Thailand, and Malaysia, residing illegally in the country, a reduction of 3,500 persons from the previous year.

The Government tried to reduce the inflow of illegal foreign workers by prosecuting employers of such workers. Revisions of the Immigration Law provide for penalties against employers of undocumented foreign workers. Suspected foreign workers also may be denied entry for passport, visa, and entry application irregularities. The Government continued to study the foreign worker issue, and several citizens' groups were working with illegal foreign workers to improve their access to information on worker rights.

f. Trafficking in Persons.—The Constitution prohibits holding persons in bondage, and the Penal Code contains several provisions that could be used to combat trafficking in persons; however, there are no specific laws that prohibit trafficking in persons, and trafficking of women and girls into the country was a problem. Women and girls, primarily from Thailand, the Philippines, and Eastern Europe, were trafficked into the country for sexual exploitation and forced labor. Women and girls from Colombia, Brazil, Mexico, South Korea, Malaysia, Burma, and Indonesia also were trafficked into the country in smaller numbers. The country was a destination for illegal immigrants from China who were trafficked by organized crime groups who often held such persons in debt bondage for sexual exploitation and indentured servitude in sweatshops and restaurants. The Government reported that some smugglers used killings and abduction to ensure payment.

There was evidence that trafficking took place within the country to the extent that some recruited women subsequently were forced, through the sale of their "contracts," to work for other employers. Child prostitution was a problem (see Section 5).

Reliable statistics on the number of women trafficked to the country were unavailable. During 2002, the NPA identified 55 women as potential trafficking victims during criminal investigations involving entertainment businesses. In the course of those investigations, 28 individuals were prosecuted as trafficking brokers under various immigration and entertainment facility laws. However, the Government does not consider an individual who has willingly entered into an agreement to work illegally in the country to be a trafficking victim, regardless of that person's working conditions once in the country. Thus, government figures may understate the problem as persons who agreed to one kind of work found themselves doing another, or were subject to force, fraud, or coercion. Traffickers were prosecuted for crimes ranging from violations of employment law to Penal Code offenses such as abduction, and the Government did not compile statistics on the number of trafficking victims associated with these cases. Because trafficked women generally were deported under immigration law as prostitutes, immigration statistics may provide only a rough picture of the scale of the problem. A government-funded study released in 2000 found that nearly two-thirds of foreign women surveyed following arrests for immigration offenses stated that they were working in the sex industry under duress.

Many women who were trafficked into the country, particularly from the Philippines, entered legally on entertainment visas. In 2002, approximately 69,986 women from the Philippines entered the country on such visas. "Entertainers" are not covered by the Labor Standards Law, and have no minimum wage protections; however, there were indications that they may be somewhat less vulnerable to abuse by employers than female migrant workers entering illegally or on other types of visas. To tighten scrutiny on the entertainer visa system, the Immigration Control and Refugee Recognition Law was revised to give regional immigration bureaus

the authority to verify that foreigners entering the country on such visas are abiding by all relevant regulations. Early results of the checks showed that a significant number of entertainer visa holders acquired their visas using fraudulent information, often listing defunct shops or fictitious establishments as employers on immigration documents. Regional immigration bureaus planned to file criminal complaints against promoters of entertainer visas who submitted fraudulent information.

Brokers in the countries of origin recruited women and “sold” them to Japanese intermediaries, who in turn subjected them to debt bondage and coercion. Agents, brokers, and employers involved in trafficking for sexual exploitation often had ties to organized crime.

Women trafficked to the country generally were employed as prostitutes under coercive conditions in businesses licensed to provide commercial sex services. Sex entertainment businesses are classified as “store form” businesses such as strip clubs, sex shops, hostess bars, and private video rooms, and as “nonstore form” businesses such as escort services and mail order video services, which arrange for sexual services to be conducted elsewhere. According to NGOs and other credible sources, most women who were trafficked to the country for the purpose of sexual exploitation were employed as hostesses in “snack” bars, where they were required to provide sexual services off premises.

Many Thai women were enticed to come to the country with offers of lucrative legitimate employment, only to be sexually exploited; many others reportedly knew that they would work as prostitutes. However, whether or not they understood the nature of the work they would be doing, trafficked women generally did not understand the debts they would be forced to repay, the amount of time it would take them to repay the debts, or the conditions of employment they would be subjected to upon arrival. According to Human Rights Watch, the passports of women trafficked to work in “dating” bars usually were confiscated by their employers, who also demanded repayment for the cost of their “purchase.” Typically, the women were charged \$25,000 to \$40,000 (3 million to 5 million yen); their living expenses and expenses for medical care (when provided by the employer) and other necessities, as well as “fines” for misbehavior, were added to the original “debt” over time. How the debt was calculated was left to the employers; the process was not transparent, and the employers reportedly often used the debt to coerce additional unpaid labor from the trafficked women. Employers also sometimes “resold” or threatened to resell troublesome women or women found to be HIV positive, thereby increasing the debt they must repay and possibly worsening their working conditions. Many women trafficked into the sex trade had their movements strictly controlled by their employers while working off their debt, and were threatened with reprisals, perhaps through members of organized crime groups, to themselves or their families if they tried to escape. Employers often isolated the women, subjected them to constant surveillance, and used violence to punish them for disobedience. Many trafficked women also knew that they were subject to arrest if found without their passports or other identification documents. Few spoke Japanese well, making escape even more difficult.

Domestic NGOs and lawyers compiled credible anecdotal evidence suggesting that some individual police officials returned trafficking victims to their employers when these individuals sought police protection. NGOs also reported that police sometimes declined to investigate suspected brokers when presented with information obtained from trafficking victims.

Except for the Tokyo Metropolitan Government, which funded a Tokyo-based NGO assisting victims of trafficking, the Government did not assist victims of trafficking for sexual purposes other than to house them temporarily in facilities established under the Anti-prostitution Law, in detention centers for illegal immigrants, or through referrals to shelters run by NGOs; generally they were deported as illegal aliens. Victims without documentation or sufficient funds to return to their country of origin were sometimes detained for long periods. Several NGOs throughout the country provided shelter, medical aid, and legal assistance to trafficking victims. A 2002 domestic violence law channeled funding to two NGOs that worked to provide protection to trafficking victims as well as victims of domestic violence. The Government funded trafficking prevention efforts in Asian source countries, sponsored public information campaigns targeted at potential victims, and provided equipment and training to police and customs officials in those countries.

KIRIBATI

Kiribati is a constitutional republic that occupies 33 small islands widely scattered across 1.365 million square miles of the central Pacific Ocean. The country has a popularly elected president and a legislative assembly of 42 members; 40 are elected by universal adult suffrage, the Rabi Island Council in Fiji nominates one, and the Attorney General holds an ex officio assembly position. The most recent parliamentary and presidential elections, held in May and July respectively, were considered free and fair. Anote Tong of the Boutokan te Koaua Party was elected President; he took office on July 10. The government party and allied independents together held 25 legislative seats. Elected village councils ran local governments in consultation with traditional village elders. The judiciary is independent.

The country has no military force. Australia and New Zealand are responsible for its external defense. A police force of 284 sworn officers and 200 constables, headed by a commissioner who reports directly to the Office of the President, is responsible for internal security. The civilian authorities maintained effective control over the security forces. There were no reports that security forces committed human rights abuses.

The country has a mixed economy. The Government owns and operates most enterprises; however, there also are some privately owned enterprises. The population of over 90,000 was primarily Micronesian, with a significant component of Polynesian origin. Economic activity consisted primarily of subsistence agriculture and fishing. Remittances from sailors employed on overseas merchant vessels and foreign development assistance also were important sources of revenue. The islands' isolation and meager resources, including poor soil and limited arable land, severely limited prospects for economic development. The rate of economic growth in 2002 was approximately 3 percent and the per capita gross domestic product was approximately \$660.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse; however, the Government retained some limits on freedom of the press. In this traditional culture, women occupy a subordinate role and have limited job opportunities. Violence against women and child abuse in urban areas were problems.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and there were no reports that government officials employed them. Traditional village practice permits corporal punishment for criminal acts and other transgressions. On some outer islands, village councils occasionally ordered strokes with palm fronds to be administered for public drunkenness and other minor offenses, such as petty theft.

Prison conditions generally met international standards. There were separate prisons for men and women. Children under age 16 were not incarcerated. There was no separate facility for juvenile offenders aged 16 or older. Juveniles aged 16 to 17 generally may be detained no longer than 1 month in the adult facility; however, for more serious offenses, such as murder, juveniles over the age of 16 can be held in custody for more than 1 month and can be sentenced to longer terms. Pre-trial detainees who did not meet bail were housed with convicted prisoners.

Family members and church representatives are allowed access to prisoners. Both diplomats and senior judicial officials have visited the prisons, including some unannounced visits, and reported no problems. During the year, there were no reported requests by local human rights groups or nonresident international human rights observers to visit prisons. The Government has not formulated a policy concerning such visits.

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

The Commissioner of Police and Prisons, who reports directly to the Office of the President, heads the police force. There are three superintendents under the Commissioner responsible, respectively, for crime and security, prisons, and administrative functions. The police force was reasonably effective in maintaining law and order. Police corruption generally was not a problem, and there were no reported instances where the police acted with impunity.

The law requires that arrested individuals be informed of their rights, which include the right to legal counsel during questioning and the right not to incriminate themselves. Two police officers must be present at all times during questioning of detainees, who also are provided the option of writing and reviewing statements given to the police. Those taken into custody without a warrant must be brought before a magistrate within 24 hours or within a reasonable amount of time when arrested in remote locations. Many individuals are released on their own recognizance pending trial, and bail is granted routinely for many offenses. Detainees were allowed prompt access to legal counsel.

The Constitution prohibits government restrictions on citizens' freedom of movement, but does not restrict such actions by village councils. The Government does not use forced exile; however, on rare occasions, village councils have used this punishment. This practice sometimes results in exile from a specific island, but not from the country. This form of punishment never has been challenged legally.

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

The judiciary consists of magistrate courts, a High Court, and a Court of Appeal. The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right. The Constitution provides that an accused person be informed of the charges against him and be provided adequate time and facilities to prepare a defense. The law also provides for the right to confront witnesses, present evidence, and appeal convictions. Defendants facing serious criminal charges are entitled to free legal representation. Procedural safeguards are based on English common law, and include the presumption of innocence until proven guilty.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The law prohibits such practices, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, the Government limited these rights in some instances. Under the 1988 Newspaper Registration Act, newspapers are required to register with the Government. In 2002, the legislature amended the act to give the Government the authority to deregister a newspaper if the publication was found to have published material deemed to be offensive to good taste, decency, or public feeling, or was likely to encourage or incite to crime. The amendment also requires newspapers to ensure that, in an article affecting the "credibility or reputation of any person," the affected individual can respond in the same article. Fines of \$329 (A500) may be assessed for each violation of these provisions. As of year's end, no publications had been deregistered or prevented from publishing. Opponents criticized the amendment as an attempt by the Government to restrict press freedom.

The Government owns the country's main newspaper, along with one AM and one FM radio station in Tarawa. In 2000, a former president established the country's first private newspaper to provide a forum for views divergent from those of the government. In 2002, the former president commenced operations of New Air FM, the country's first private radio station. (In 1999, the government blocked the radio station from operating for importing broadcast equipment without a license; the station owner initiated legal action and won the right to operate in 2002.) Churches published newsletters and other periodicals. High costs limited the availability of foreign print media and Internet access, but there were no government-imposed limitations.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. Permits are required for public gatherings, but these were granted routinely.

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

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the Government generally respected them in practice. On rare occasions, village councils have banished persons

from a specific island within the country, usually for a fixed period of time (see Section 1.d.).

There is no law providing for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has not formulated a policy regarding refugees or asylum. However, there were no reports of the forced return of persons to a country where they feared persecution. There were no applications for refugee resettlement or asylum during the year.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. To be elected, a candidate must secure at least half the valid votes cast; if there is no first-round winner, a runoff election is held. The President exercises executive authority and is elected for a 4-year term. The elected Legislative Assembly nominates no fewer than three and no more than four presidential candidates from among its members. Under the Constitution, the President is limited to three terms. In March, Parliament was dissolved after the administration of President Teburoro Tito, who had been reelected in February by a narrow margin, fell on a no-confidence vote. New parliamentary elections were held in May, and opposition leader Anote Tong of the Boutokan Te Koaua Party (BTKP) was elected President in July; the elections were considered free and fair. In October, the High Court ruled in favor of President Tong in a lawsuit filed by several members of opposition parties alleging illegal cash payments by the BTKP to village councils during the presidential election campaign. Under the law, traditional gifts to village councils do not constitute bribes; however, the law places limits on the amount of such gifts. The plaintiffs alleged that the BTKP's payments exceeded these limits and constituted "vote buying." The court dismissed the claims, ruling that the gifts in question lacked a "corrupt motive" and did not constitute "vote buying."

There were 2 women, including the Vice President, in the 42-member Parliament, and 4 women held permanent secretary positions.

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

There were no restrictions on the formation of local human rights nongovernmental organizations, but none have been formed. There were no restrictions on operations by international human rights groups. There were no reported allegations of human rights abuses by the Government during the year, and no known requests for investigations.

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

The Constitution prohibits discrimination on the basis of race, creed, national origin, or sex, and the Government observed these prohibitions in practice; however, only native I-Kiribati (those with Kiribati ancestry) may own land. Society is fundamentally egalitarian and has no privileged class.

Women.—Spousal abuse and other forms of violence against women were a significant problem. Alcohol abuse frequently was a factor in attacks on women. The law does not address domestic violence specifically, but general common law and criminal law make assault in all forms illegal. Rape, including spousal rape, is a crime, and the law was enforced when charges were brought to court. However, it is believed that such prosecutions are relatively infrequent for cultural reasons.

Prostitution is not illegal, but it was not common; procuring sex and managing brothels are illegal. The law does not specifically prohibit sex tourism; however, there were no reports of such activity. Obscene or indecent behavior is banned.

The law does not prohibit sexual harassment; although it sometimes occurred, it generally was not regarded as a major problem.

The Constitution prohibits discrimination based on sex; however, the traditional culture, in which men are dominant, has impeded a more active role for women in the economy. Nevertheless, women are slowly finding work in unskilled and semi-skilled occupations. The Government has increased its hiring and promotions of women; women filled many governmental office positions and teaching positions. The Employment Ordinance prohibits night work by women except in seven exempt occupations, including health worker, hotel, bar, and restaurant worker, and business manager. However, this ordinance was little known, and there were no reported prosecutions based on its provisions. Statistics on the participation of women in the work force and on comparative wages were unavailable, and statistics gen-

erally were not well collected in the country. Women have full rights of ownership and inheritance of property as well as full and equal access to education.

Children.—Within its limited financial resources, the Government made adequate expenditures for child welfare. Primary education is compulsory, free, and universal for children between the ages of 6 and 14 years. In practice, the Government did not enforce primary school attendance. Unofficial estimates indicated that over 50 percent of all children attended school, with no significant gender discrimination. The approximately 40 percent of primary school graduates who pass a national examination qualify for 3 additional years of subsidized junior secondary and 4 years of subsidized senior secondary education; a small fee was charged to other students who wished to matriculate at these levels.

The Government provided free national medical service; however, there were no doctors on the outer islands. The central hospital in Tarawa provided basic medical services, but not intensive care facilities. There were no reports of gender bias in the provision of health services.

Child abuse was an ongoing problem, particularly on more densely populated South Tarawa.

Persons with Disabilities.—The law does not prohibit specifically discrimination against persons with disabilities; however, there were no complaints of discrimination in employment, education, or in the provision of other state services for persons with mental or physical disabilities. Accessibility of buildings for persons with disabilities has not been mandated; accommodations for persons with disabilities were basically nonexistent.

The central hospital on Tarawa has a wing for persons with mental disabilities, and there was a foreign national psychiatrist working on Tarawa. Foreign-based aid workers and the World Health Organization cooperated with the Ministry of Health to conduct outer island workshops for health workers.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for freedom of association, and workers are free to join and organize unions; workers exercised these rights in practice.

Over 90 percent of the work force were occupied in fishing or subsistence farming, but the small wage sector had a relatively strong and effective trade union force. An estimated 10 percent of wage-earning workers were union members. In 1982, seven registered trade unions merged to form the Kiribati Trade Union Congress (KTUC), which has approximately 2,500 members. There are no official public sector trade unions; however, public sector nurses and teachers belonged to voluntary employee associations similar to unions and constituted approximately 30 to 40 percent of total union and association membership.

Unions are free to affiliate internationally. The KTUC is affiliated with the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively.—The law protects workers from employer interference in their right to organize and administer unions. The Government did not control or restrict union activities; however, unions must register with the Government. Collective bargaining is provided for under the Industrial Relations Code. The Government sets wages in the large public sector. However, in a few statutory bodies and government-owned companies, employees could negotiate wages and other conditions. In the private sector, individual employees also could negotiate wages with employers. In keeping with tradition, negotiations generally were nonconfrontational. There were no reports of anti-union discrimination, and there were mechanisms to resolve any complaints that might arise.

The law provides for the right to strike. However, strikes are rare; the last one took place in 1980.

There are no export processing zones.

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

The prohibition does not mention specifically forced and bonded labor by children; however, there were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law prohibits the employment of children under age 14. Children through the age of 15 are prohibited from industrial employment and employment aboard ships. Labor officers from the Ministry of Commerce, Industry, and Employment generally enforced these laws effectively, given the rudimentary conditions of the economy. Children rarely were employed outside the traditional economy.

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

e. Acceptable Conditions of Work.—There is no minimum wage. There is provision for a minimum wage at ministerial discretion, but it has never been implemented. Income tended to be pooled within the extended family, and the standard income appeared adequate to provide a decent standard of living for a worker and family. There is no legislatively prescribed workweek. Workers in the public sector (80 percent of the wage-earning work force) worked 36¼ hours per week, with overtime pay for additional hours.

Employment laws provide rudimentary health and safety standards for the workplace. For example, employers had to provide an adequate supply of clean water for workers and ensure the existence of sanitary toilet facilities. Employers are liable for the expenses of workers injured on the job. However, the Government's ability to enforce employment laws was hampered by a lack of qualified personnel. Workers do not have the right to remove themselves from hazardous work sites without risking loss of employment.

There are no laws specifically to protect foreign workers; however, there were no significant numbers of foreign workers and no reports of mistreatment. Some foreign volunteers and missionaries worked in the schools.

f. Trafficking in Persons.—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA¹

The Democratic People's Republic of Korea (DPRK or North Korea) is a dictatorship under the absolute rule of Kim Jong Il, General Secretary of the Korean Workers' Party (KWP) since October 1997. In 1998, the Supreme People's Assembly reconfirmed Kim Jong Il as Chairman of the National Defense Commission and declared that position the "highest office of state." The presidency was abolished, leaving Kim Jong Il's father, the late Kim Il Sung, as the DPRK's "eternal president." During the year, the Korean People's Army (KPA) continued to displace the KWP as Kim Jong Il's chief instrument for making and implementing policy. The titular head of state is Kim Yong Nam, the President of the Presidium of the Supreme People's Assembly. Elections for the 687-member Assembly were held in August. Only the KWP and two small satellite parties participated. The elections were not free. Kim Jong Il and his father were the objects of an intense personality cult and the regime continued to cling to "juche," a national ideology of self-reliance, even though the population was dependent on international aid for its survival. The judiciary is not independent.

The DPRK is one of the world's most militarized states. The KPA is the primary organization responsible for external security. A large military reserve force and several quasi-military organizations, including the Worker-Peasant Red Guards and the People's Security Force, assist it. These organizations also assisted the large internal security apparatus, which includes the Ministry of Public Security [MPS], the State Security Department, the National Security Agency, the National Security Police, and the KWP. Members of the security forces have committed serious human rights abuses.

North Korea has had one of the most centralized and tightly controlled economies in the world; however, citizens increasingly have tried to work in the informal economy, in recent years, to cope with shortages of food and other necessities. Only government-controlled labor unions are permitted in this country of 22 million persons. Industry continued to operate at very low capacity, reflecting antiquated plant and equipment and severe shortages of inputs. Heavy military spending, which is estimated at more than one quarter of gross domestic product (GDP), hampered economic development. The economy also was hampered by a lack of access to commercial lending stemming from the country's default on its foreign debt and its inability to obtain loans from international financial institutions. Rarely self-sufficient in food supplies, the country relied on international aid and trade to supplement domestic production. Economic and political conditions have caused at least tens of thousands

¹The United States does not have diplomatic relations with the Democratic People's Republic of Korea. North Korea does not allow representatives of foreign governments, journalists, or other invited guests the freedom of movement that would enable them to assess fully human rights conditions there. This report is based on information obtained over more than a decade, updated where possible by information drawn from recent interviews, reports, and other documentation. While limited in detail, this information is nonetheless indicative of the human rights situation in North Korea today.

of persons to flee their homes since the mid-1990s. To relieve food shortages, the Government permitted an increase in the number of private vendors to compensate for the contraction of food supplied through the public distribution system. Food, clothing, and energy provided by the Government were rationed throughout the country. To encourage economic development, in 2002 the Government raised wages and prices drastically, sharply devalued its currency, and announced that it would grant managers more responsibility. These changes sparked a dramatic rise in inflation, but failed to re-energize industrial growth. The regime remained committed to the notion of establishing special economic zones as “capitalist” enclaves to attract foreign direct investment, but no significant progress was recorded during the year.

The Government’s human rights record remained extremely poor, and it continued to commit numerous serious abuses. Citizens do not have the right to change their government, and the leadership views most international human rights norms, particularly individual rights, as illegitimate, alien, and subversive to the goals of the State and Party. There continued to be reports of extrajudicial killings, disappearances, and arbitrary detention including many who were held as political prisoners. Prison conditions were harsh, and torture reportedly was common. Credible eyewitness reports note that pregnant female prisoners underwent forced abortions, and in other cases babies reportedly were killed upon birth in prisons. The constitutional provisions for an independent judiciary and fair trials were not implemented in practice. The regime subjected its citizens to rigid controls over many aspects of their lives. The Penal Code is Draconian, stipulating capital punishment and confiscation of assets for a wide variety of “crimes against the revolution,” including defection, attempted defection, slander of the policies of the Party or State, listening to foreign broadcasts, writing “reactionary” letters, and possessing reactionary printed matter. Citizens are denied freedom of speech, the press, assembly, and association; all forms of cultural and media activities are under the tight control of the KWP. Little outside information reaches the public except that which is approved and disseminated by the Government. The Government restricted freedom of religion, citizens’ movement, and worker rights. There were reports of trafficking in women and young girls among refugees and workers crossing the border into China. In April, the U.N. Commission on Human Rights for the first time adopted a resolution on the situation of human rights in the DPRK, which, among other things, “expresses its deep concern about reports of systemic, widespread and grave violations of human rights. . . .”

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Defectors and refugee reports over several years indicate that the regime executed political prisoners, opponents of the regime, some repatriated defectors, and others, including military officers suspected of espionage or of plotting against Kim Jong Il. Criminal law makes the death penalty mandatory for activities “in collusion with imperialists” aimed at “suppressing the national liberation struggle.” Prisoners have been sentenced to death for such ill-defined “crimes” as “ideological divergence,” “opposing socialism,” and “counterrevolutionary crimes.” In its 2001 report to the U.N. Human Rights Committee, the Government claimed that it had reduced the number of criminal offences carrying the death penalty from 33 to 5; the Committee, while welcoming this reduction, noted that 4 of the 5 offences were essentially political and “couched in terms so broad that the imposition of the death penalty may be subject to essentially subjective criteria, and not confined to the ‘most serious crimes’ only. . . .” In some cases, executions reportedly were carried out at public meetings attended by workers, students, school children, and before assembled inmates at places of detention. Border guards reportedly have orders to shoot to kill potential defectors. Similarly, prison guards are under orders to shoot to kill those attempting escape from political concentration camps, according to defectors.

Defectors have reported that government officials prohibit live births in prison. Forced abortion and the killing of newborn babies reportedly were standard prison practices (see Section 1.c.).

Religious and human rights groups outside the country reported that members of underground churches have been killed because of their religious beliefs and suspected contacts with overseas evangelical groups operating across the Chinese border (see Section 2.c.).

Many prisoners reportedly have died from beatings, disease, starvation, or exposure (see Section 1.c.).

b. Disappearance.—The Government reportedly was responsible for cases of disappearance. Defectors in recent years have claimed that individuals suspected of po-

litical crimes often were taken from their homes by state security officials and sent directly, without trial, to camps for political prisoners. There are no practical restrictions on the ability of the Government to detain and imprison persons at will and to hold them incommunicado.

Numerous reports indicated that ordinary citizens are not allowed to mix with foreign nationals, and Amnesty International has reported that a number of citizens who maintained friendships with foreigners have disappeared.

There also were long-standing reports of past government involvement in the kidnapping abroad of South Koreans, Japanese, and other foreign nationals. In September 2002, Kim Jong Il acknowledged to Japanese Prime Minister Koizumi the involvement of DPRK "special institutions" in the kidnapping of Japanese citizens and said that those responsible had been punished. Japanese officials reported that these abductions took place between 1977 and 1983. Five surviving victims were allowed to visit Japan in October 2002, and they decided to remain in Japan. Japan also seeks an accounting for 10 Japanese said to be dead or never to have entered North Korea and hopes to gain answers regarding 20 other cases of suspected abductions of Japanese nationals.

Many South Koreans are believed to have been abducted in the 1970s and 1980s. The South Korean Government has compiled a list of 486 South Korean citizens, most of whom were fishermen, abducted since the 1950–53 Korean War.

In addition, other reported cases of kidnapping, hostage-taking, and other acts of violence took place, apparently intended to intimidate ethnic Koreans living in China and Russia. Despite the admission to Prime Minister Koizumi, the Government continued to deny that it had been involved in kidnappings of other foreign nationals.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.— In its 2001 submission to the U.N. Human Rights Committee, the Government claimed that torture is prohibited by law; however, a number of sources confirm its practice. According to a report by the U.S. Committee for Human Rights in North Korea (USCHRNK), torture "is routine and severe." Methods of torture reportedly routinely used included severe beatings; electric shock; prolonged periods of exposure; humiliations such as public nakedness; confinement to small "punishment cells," in which prisoners were unable to stand upright or lie down, where they could be held for several weeks; being forced to kneel or sit immobilized for long periods; being hung by one's wrists; being forced to stand-up and sit-down to the point of collapse; and, forcing mothers recently repatriated from China, to watch the infanticide of their newly born infants. Defectors reported that many prisoners have died from torture, disease, starvation, exposure, or a combination of these causes. There were allegations of lethal gas experiments on prisoners.

Since 2002, China has deported thousands of North Korean women, some of whom were pregnant, and many of whom were imprisoned upon their return. Reportedly, North Korean officials prohibited live births in prison and forced abortions were regularly performed, particularly in detention centers holding women repatriated from China. Those sources further indicate that, in cases of live birth, the child was immediately killed. According to reports, the reason given for this policy was to prevent the birth of half-Chinese children. In addition, guards sexually abused female prisoners.

Prison conditions were harsh; starvation and executions were common. "Reeducation through labor" is a common punishment, consisting of forced labor, such as logging, mining, or tending crops under harsh conditions, and reeducation consisting of memorizing speeches by Kim Jong Il and being forced to participate in self-criticism sessions after labor. Visitors to the country have observed prisoners being marched in leg irons, metal collars, or shackles. In some places of detention, prisoners were given little or no food and, when they contract illnesses, were denied medical care. Sanitation was poor, and prisoners reported rarely being able to bathe, or wash their clothing, and having no change of clothing during months of incarceration.

In June 2002, Lee Soon-ok, a woman who spent several years in a prison camp before fleeing to China in 1994 and then to the Republic of Korea (South Korea), testified before the U.S. Senate that the approximately 1,800 inmates in her camp typically worked 16 to 17 hours a day. Lee witnessed severe beatings and incidents of torture involving forcing water into a victim's stomach with a rubber hose followed by guards jumping on a board placed across the victim's abdomen. Lee also testified that chemical and biological warfare experiments were conducted on inmates by the army. Other defectors reported similar experiences. At Camp 22 in Haengyong, approximately 50,000 prisoners worked under conditions that reportedly resulted in the death of 20 to 25 percent of the prison population per year in the 1990s.

Other witnesses who testified before the U.S. Congress in 2002 stated that prisoners held on the basis of their religious beliefs generally were treated worse than other inmates (see Section 2.c.).

In Washington in October, Kim Yong, a former police Lieutenant Colonel, told USCHRNK that, as an inmate in a political prison camp, he had been forced to kneel for long periods with a steel bar placed between his knees and calves, been suspended by his handcuffed wrists, and submerged in waist-deep cold water for extended periods.

The Government did not permit inspection of prisons by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—There are no restrictions on the ability of the Government to detain and imprison persons at will and to hold them incommunicado. Family members and other concerned persons reportedly find it virtually impossible to obtain information on charges against or the length of sentences of detained persons. Judicial review of detentions does not exist in law or in practice.

An estimated 150–200,000 persons are believed to be held in detention camps in remote areas for political reasons. Satellite imagery of these camps made available during the year revealed they may cover areas as large as 200 square miles and contain mass graves in addition to barracks, work sites, and other prison facilities. The Government has denied the existence of prison camps for political prisoners, which are marked as military areas to prevent access by the local population. In recent years, the Government has reportedly reduced the total number of prison camps from approximately 20 to less than 10, but the prison population was consolidated rather than reduced. During the year, a defector who had been a ranking official in the Ministry of Public Security told USCHRNK that conditions in the camps for political prisoners were extremely harsh and prisoners are not expected to survive. In these camps, prisoners received little food and no medical provisions.

Collective punishment is practiced. Entire families, including children, have been imprisoned when one member of the family was accused of a crime. In November, an investigator for a human rights nongovernmental organization (NGO) said that punishment could be extended to imprison three generations of a family for life at hard labor.

The Government is not known to use forced exile. However, the Government routinely uses forced internal resettlement and has relocated many tens of thousands of persons from Pyongyang to the countryside, although not always as punishment for offenses. For example, although disabled veterans are treated well, other persons with physical disabilities, as well as those judged to be politically unreliable, have been sent out of the city into internal exile.

e. Denial of Fair Public Trial.—The Constitution states that courts are independent and that judicial proceedings are to be carried out in strict accordance with the law; however, an independent judiciary does not exist in practice. Moreover, the Constitution also mandates that the Central Court is accountable to the Supreme People's Assembly, and the Criminal Code subjects judges to criminal liability for handing down "unjust judgments." Furthermore, individual rights are not acknowledged. The Public Security Ministry dispensed with trials in political cases and referred prisoners to the Ministry of State Security for punishment. Little information was available on formal criminal justice procedures and practices, and outside observation of the legal system has been limited to show trials for traffic violations and other minor offenses.

The Constitution contains elaborate procedural protections. It states that cases should be heard in public, except under some circumstances stipulated by law. The Constitution also states that the accused has the right to a defense, and when trials were held, the Government reportedly assigned lawyers. Some reports noted a distinction between those accused of political crimes and common criminals, and stated that the Government afforded trials or lawyers only to the latter. The Government considered critics of the regime to be political criminals.

Past reports have described political offenses as including sitting on newspapers bearing Kim Il Sung's picture, noting DPRK founder Kim Il Sung's limited formal education, or defacing photographs of the two Kims. Foreigners are not exempt from such rules. In one case a foreigner working on international broadcasts for the regime was imprisoned for 1 year without trial for criticizing the quality of the regime's foreign propaganda and then imprisoned for 6 more years (with trial) when, after his release, he claimed in a private conversation that his original imprisonment was unjust.

Common criminals were occasionally amnestied on the occasion of Kim Il Sung's or Kim Jong Il's birthday.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The Constitution provides for the inviolability of person and residence and the privacy

of correspondence; however, the Government does not respect these provisions in practice. The regime subjects its citizens to rigid controls. The Government relies upon a massive, multi-level system of informers to identify critics and potential troublemakers. Whole communities sometimes are subjected to security checks. The possession of "reactionary material" and listening to foreign broadcasts are crimes that could subject the transgressor to harsh punishments. As noted above, entire families could be punished for alleged political offenses committed by one member of the family. Defectors have reported that families were punished because children had accidentally defaced photographs of the two Kims (see Section 1.e.).

The Government monitored correspondence and telephone conversations. Telephones essentially are restricted to domestic service, although some international service was available on a very restricted basis.

The Constitution provides for the right to petition. However, when an anonymous petition or complaint about state administration was submitted, the Ministries of State Security and Public Safety sought to identify the author, who could be subjected to investigation and punishment.

Since the late 1950s, the regime has divided society into three main classes: "core," "wavering," and "hostile." Security ratings are assigned to each individual; according to some estimates, nearly half of the population is designated as either "wavering" or "hostile." Loyalty ratings determine access to employment, higher education, place of residence, medical facilities, and certain stores. They also affect the severity of punishment in the case of legal infractions. While there were signs that this rigid system has been relaxed somewhat in recent years, it remained a basic feature of KWP political control.

Citizens with relatives who fled to the Republic of Korea at the time of the Korean War still appeared to be classified as part of the "hostile class." One defector estimated that those considered potentially hostile comprised 25 to 30 percent of the population; others placed the figure at closer to 20 percent. Members of this class still were subject to discrimination, although defectors reported that their treatment had improved greatly in recent years.

Citizens of all age groups and occupations are subject to intensive political and ideological indoctrination. The cult of personality of Kim Jong Il and his father and the official "juche" ideology has declined somewhat, but remained an important ideological underpinning of the regime, approaching the level of a state religion. Since 2002, the regime increasingly has emphasized an "army first" policy, purportedly necessitated by the external threat. Indoctrination is intended to ensure loyalty to the system and leadership, as well as conformity to the State's ideology and authority. The necessity for the intensification of such indoctrination is repeatedly stressed in the writings of Kim Jong Il, who attributed the collapse of the Soviet Union largely to insufficient ideological indoctrination, compounded by the entry of foreign influences.

Indoctrination was carried out systematically: through the mass media, in schools, and through worker and neighborhood associations. Kim Jong Il has stated that ideological education must take precedence over academic education in the nation's schools, and he also called for the intensification of mandatory ideological study and discussion sessions for adult workers. Indoctrination also involved mass marches, rallies, and staged performances, sometimes involving hundreds of thousands of persons. In September, a crowd estimated to be in the hundreds of thousands celebrated the 55th anniversary of the founding of the DPRK with parades and carefully choreographed demonstrations.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and the press; however, the Government prohibits the exercise of these rights in practice. Articles of the Constitution that require citizens to follow "socialist norms of life" and to obey a "collective spirit" take precedence over individual political and civil liberties. The regime only permits activities that support its objectives. Authorities punished persons for criticizing the regime or its policies with imprisonment or "corrective labor." Persons reportedly have been placed under surveillance through their radio sets, and imprisoned and executed for statements made at home that were critical of the regime.

The Government sought to control virtually all information. Claiming that the country is under continuing threat of armed aggression, the Government carefully managed visits by foreigners, especially foreign journalists. On occasion, when it served its agenda, the Government allowed foreign media to cover certain events. In October, a South Korean television network was allowed to send a crew of 270 to Pyongyang to broadcast an inter-Korean basketball game. On occasion, during visits by foreign leaders, groups of foreign journalists were permitted to accompany

official delegations and to file reports. In all cases, journalists were strictly monitored. They were not generally allowed to talk to officials or to persons on the street, and cellular or satellite phones were confiscated for the duration of a visitor's stay.

Domestic media censorship was enforced strictly, and no deviation from the official government line was tolerated. The regime prohibits listening to foreign media broadcasts except by the political elite, and violators are subject to severe punishment. Radios and television sets receive only domestic programming; radios obtained from abroad must be submitted for alteration to operate in a similar manner. Private telephone lines operated on an internal system that prevented making and receiving international calls; international phone lines were available only under very restricted circumstances. Some deluxe hotels in Pyongyang offered Internet service for foreign visitors, but for citizens, Internet access was limited to high-ranking officials with a "need to know." This access was provided via international telephone lines to a provider in China.

The Government severely restricted academic freedom and controlled artistic and academic works. A primary function of plays, movies, operas, children's performances, and books is to contribute to the cult of personality surrounding Kim Il Sung and Kim Jong Il.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly; however, the Government did not respect this provision in practice. The Government prohibits any public meetings without authorization.

The Constitution provides for freedom of association; however, the Government did not respect this provision in practice. There are no known organizations other than those created by the Government. Professional associations existed primarily to facilitate government monitoring and control over the organizations' members.

c. Freedom of Religion.—The Constitution provides for "freedom of religious belief"; however, in practice the Government severely discouraged organized religious activity except as supervised by officially recognized groups. In 1992, a constitutional change authorized religious gatherings, provided for "the right to build buildings for religious use," and deleted a clause about freedom of anti-religious propaganda. The Constitution also stipulates that religion "should not be used for purposes of dragging in foreign powers or endangering public security." Genuine religious freedom did not exist.

Several government-sponsored religious organizations served as interlocutors with foreign church groups and international aid organizations. Foreigners who met with representatives of these organizations believed that some were genuinely religious but noted that others appeared to know little about religious dogma, liturgy, or teaching.

The number of religious believers was unknown but has been estimated by the media and religious groups at 10,000 Protestants, 10,000 Buddhists, and 4,000 Catholics, in addition to an undetermined number of persons belonging to underground Christian churches. Some sources estimated that as many as 500 informal Christian congregations were active during the year. In its July 2002 report to the U.N. Human Rights Committee, the Government reported the existence of 500 "family worship centers," an apparent reference to these congregations. Some reports indicated that such "house churches" have been increasingly tolerated as long as they do not openly proselytize or have contact with foreign missionaries. The Chondogyo Young Friends Party, a government-sponsored group based on a traditional Korean religious movement, also remained in existence.

Most of the 300 Buddhist temples in the DPRK were regarded as cultural relics, but in some of them religious activity was permitted. Since 1988, two Protestant churches under lay leadership and a Roman Catholic church (without a priest) have opened in Pyongyang. Several schools for religious education exist, including 3-year religious colleges for training Protestant and Buddhist clergy. A religious studies program also was established at Kim Il Sung University in 1989; its graduates usually go on to work in the foreign trade sector. It was not known whether any Catholic priests remained in the country.

Hundreds of religious figures have visited the country in recent years, including papal representatives and religious delegations from the Republic of Korea, the United States, and other countries. Overseas religious relief organizations have been active in responding to the country's food crisis. Although some foreigners who visited the country stated that church activity appeared staged, others believed that church services were genuine, although sermons contained both religious and political content supportive of the regime. Foreign legislators attending services in Pyongyang during the year noted that the congregations all arrived at and departed the services as a group on tour buses.

Persons engaging in religious proselytizing can be arrested and are subject to harsh penalties, including imprisonment and prolonged detention without charge. The regime appeared to have cracked down on unauthorized religious groups in recent years, particularly on persons who proselytized or who had ties to overseas evangelical groups operating across the border in China. The Government appeared especially concerned about religiously based South Korean relief and refugee assistance efforts along the northeast border with China becoming entwined with political goals, including opposition to the regime. Some repatriated defectors who had established contacts with religiously based South Korean groups have reportedly been executed.

Religious and human rights groups outside the country continued to provide numerous but unconfirmed reports that thousands of members of underground churches have been beaten, arrested, detained in prison camps, or killed because of their religious beliefs. One unconfirmed report stated that approximately 400 Christians were executed during 2001. Though unconfirmable, the collective weight of anecdotal evidence of harsh treatment of unauthorized religious activity lends credence to such reports.

Little was known about the actual life of religious persons in the country. Members of government-recognized religious groups did not appear to suffer discrimination, perhaps because, as some reports claimed, they had been mobilized by the regime. Persons whose parents were believers but who themselves were non-practicing were able to rise to at least the mid-levels of the bureaucracy in recent years. Such individuals, as a category, suffered broad discrimination in the past. However, the regime continued to view religious believers belonging to underground congregations or with ties to evangelical groups in North China as subversive.

Persons who witnessed the treatment of persons held in prison camps through the early 1990s said that prisoners held on the basis of their religious beliefs generally were treated worse, sometimes much worse, than other inmates. One such witness, a former prison guard, testified that those believing in God were regarded as insane, since authorities taught, "all religions are opiates." He recounted an instance in which a woman was kicked repeatedly and left with her injuries unattended for days because a guard overheard her praying for a child who was being beaten.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for the "freedom to reside in or travel to any place"; however, the Government did not respect these rights in practice. In the past, the regime has controlled strictly internal travel, requiring a travel pass for any movement outside one's home village. Numerous reports in recent years suggested that, in part due to the worsening food conditions in the country and in part because of changing economic policies, internal travel rules have been relaxed to allow citizens to search for food, conduct local market activities, or engage in enterprise-to-enterprise business activities. However, only members of a very small elite had vehicles for personal use and the regime tightly controlled access to civilian aircraft, trains, buses, food, and fuel. The Government strictly controlled permission to reside in, or even to enter, Pyongyang, where food supplies, housing, health, and general living conditions were much better than in the rest of the country.

The regime issues exit visas for foreign travel only to officials and trusted artists, athletes, academics, and religious figures. It did not allow legal emigration, though officials in border areas have reportedly often taken bribes from or simply let pass persons crossing the border with China without required permits.

Since the mid-1990s, substantial numbers of North Koreans have crossed the border into China and have proceeded to the Republic of Korea, Hong Kong, Vietnam, and other Asian countries. Many of those who crossed into China during the year returned to North Korea after securing food.

The Penal Code makes defection and attempted defection (including the attempt to gain entry to a foreign embassy for the purpose of seeking political asylum) capital crimes. Many would-be refugees who were returned involuntarily have been imprisoned under harsh conditions; however, some have been executed (see Section 1.a.). USCHRNC interviewed witnesses who stated that "North Korean women who were pregnant when repatriated were subsequently subjected to forced abortions, or if the pregnancy was too advanced, were allowed to deliver their babies only to have them killed immediately after birth (based on the possibility that the Korean women had been impregnated by Han Chinese men)" (see Section 1.c.). Some migrants have stated that DPRK border guards have orders to shoot to kill persons attempting to cross the border into China, although many extra-legal border crossings did occur. The regime has reportedly retaliated against the relatives of some of those who managed to leave the country.

During the year, deportations of North Koreans from China continued. Most observers estimated that since 1994 there have been at least tens of thousands, and perhaps several hundred thousand North Koreans in China. Most crossed the border clandestinely in small groups to seek food, shelter, and work. Some have settled semi-permanently in Northeastern China, while others travel back and forth across the border. Since 2000, the Chinese Government has sporadically sought out and forcibly repatriated large numbers of these persons, whom PRC authorities regarded as illegal economic migrants. Deportations appeared to have risen in 2001 and 2002 after North Koreans began seeking onward travel to South Korea through high-profile tactics such as seeking asylum in diplomatic missions, although sufficient data to confirm this view was lacking. Deportations continued, albeit at a slower pace than in 2002.

During the year, over 1,500 North Koreans were able to travel to the Republic of Korea after seeking refuge primarily in South Korean Consulates in China. However, there were reports that the Chinese authorities were warning church groups and others that have given shelter to North Koreans in the past to cease such activities or risk severe consequences.

North Koreans in Russia also suffered serious human rights abuses. Many were workers employed under harsh conditions under contracts entered into by the North Korean authorities with Russian firms. Many North Koreans in Russia had their passports and other identification confiscated by North Korean border guards and faced severe hardship due to their lack of any identification.

From 1959 to 1982, 93,000 Korean residents of Japan, including 6,637 Japanese wives, voluntarily repatriated to North Korea. Despite DPRK assurances that the wives, more than a third of whom still had Japanese citizenship, would be allowed to visit Japan every 2 or 3 years, none were permitted to do so until 1997. Many had not been heard from, and their relatives and friends in Japan were unsuccessful in their efforts to gain information about their condition and whereabouts. In 1997, the Government agreed to allow some of these Japanese wives to visit Japan. Some visits have taken place on an irregular basis since then. Although the Government has permitted an increasing number of overseas Koreans to visit relatives in North Korea over the past decade, most requests for such visits were denied.

Although a member of the U. N., the country did not participate in international refugee forums. The Government had no known policy or provision for refugees or asylees.

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

Citizens do not have the right to change their leadership or government peacefully. The Korean Workers' Party and Korean People's Army, with Kim Jong Il in control, dominate the political system. Very little reliable information is available on intra-regime politics. The legislature, the Supreme People's Assembly (SPA), meets only a few days per year to rubber-stamp resolutions presented to it by the party leadership.

The regime justifies its dictatorship with arguments derived from concepts of collective consciousness and the superiority of the collective over the individual, appeals to nationalism, and citations of the *juche* ideology. The authorities emphasize that the core concept of *juche* is "the ability to act independently without regard to outside interference." Originally described as "a creative application of Marxism-Leninism" in the national context, *juche* is a malleable philosophy reinterpreted from time to time by the regime as its ideological needs changed. Though it was de-emphasized during the year, the concept is used by the regime as a "spiritual" underpinning for its rule.

In an effort to give the appearance of democracy, the Government has created several "minority parties." Lacking grassroots organizations, they exist only as rosters of officials with token representation in the SPA. Their primary purpose appeared to be promoting government objectives abroad as touring parliamentarians. Free elections did not exist, and the regime criticized the concept of free elections and competition among political parties as an "artifact" of "capitalist decay."

Elections to the SPA and to provincial, city, and county assemblies are held irregularly. Elections were held in 1990, 1998, and in August. In the August balloting, "all (687) candidates were successfully elected," according to the DPRK Central Election Committee. Kim Jong Il was elected to a seat with 100 percent of the vote of his constituency. Results of previous SPA elections produced virtually identical outcomes.

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

The Government has not permitted any independent domestic organizations to monitor human rights conditions or to comment on violations of such rights. A North Korean Human Rights Committee, established by the Government in 1992, has denied the existence of any human rights violations in the country.

In July 2001, a North Korean delegate reporting to the U.N. Human Rights Committee dismissed reports of human rights violations in the country as the propaganda of “egoistic” and “hostile forces” seeking to undermine the sovereignty of the country.

The Government has ignored requests for visits by international human rights organizations, and none were known to have visited since a 1996 Amnesty International visit. In 2002, the Government submitted a report on human rights to the U.N. Human Rights Committee.

A number of countries that have established relations with the DPRK in recent years have sought to engage it on human rights. In 2001 and 2002, North Korean officials and EU representatives held dialogues on human rights. North Korea emphasized that it had ratified most U.N. human rights instruments. Human rights concerns were further addressed during political consultations during the year. In April, the U.N. Commission on Human Rights for the first time adopted a resolution on the situation of human rights in the DPRK. The resolution, among other things, expressed “deep concern about reports of systemic, widespread and grave violations of human rights . . . and note(d) with regret that the authorities . . . have not created the necessary conditions to permit the international community to verify these reports. . . .”

Although not involved in monitoring human rights, the World Food Program (WFP) visited 162 of the country’s 206 counties during the year to monitor food distribution and survey nutritional needs. The number of WFP monitoring visits has increased since the WFP first established its presence in the DPRK in 1995. Monitoring visits could not be made on a random or short-notice basis, thus limiting their effectiveness in verifying that aid reached its intended recipients on a sustained basis. The WFP also was not allowed to bring in native Korean speakers for its staff. During the year, South Korean monitoring teams were allowed for the first time to observe briefly the distribution of food aid provided on a bilateral basis. For every 100,000 tons of food delivered, the Republic of Korea was allowed to send three monitoring teams to visit any of the previously agreed-upon distribution points.

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

The Constitution grants equal rights to all citizens. However, the Government denied its citizens most fundamental human rights in practice, and there was pervasive discrimination on the basis of social status.

Women.—The Constitution states “women hold equal social status and rights with men”; however, although women were represented proportionally in the labor force, few women had reached high levels of the Party or the Government. Women reportedly made up 20 percent of the membership of the SPA, but only approximately 4 percent of the membership of the Central Committee of the KWP.

There was no information available on domestic and general societal violence against women; women prisoners reportedly were subject to rape and forced abortions (see Section 1.c.).

Working-age women, like men, are required to work. They were thus required to leave pre-school aged children in the care of elderly relatives or in state nurseries. According to the Constitution, women with large families are to work shorter hours. There were reports of trafficking in women and young girls among North Koreans crossing the border into China (see Section 6.f.).

Children.—The State provides compulsory education for all children until the age of 15. However, some children were denied educational opportunities and subjected to other punishments and disadvantages as a result of the loyalty classification system and the principle of “collective retribution” for the transgressions of family members (see Section 1.f.).

Like others in society, children were the objects of intense political indoctrination; even mathematics textbooks propound party dogma. In addition, foreign visitors and academic sources reported that children from an early age were subjected to several hours a week of mandatory military training and indoctrination at their schools. School children sometimes were sent to work in factories or in the fields for short periods to assist in completing special projects or in meeting production goals.

There was some evidence that children have suffered disproportionately from the persistent food shortages. The WFP reported feeding 3 million children during the year, a reduction from its assistance to 4 million children in 2002, caused by a shortfall in donor contributions. A nutrition survey carried out in 2002 by UNICEF and the WFP, in cooperation with the Government, found that in the sample of 6,000 children, 20 percent were underweight, 39 percent were stunted, and 8 percent were severely malnourished; however, this was an improvement compared to a 1998 UNICEF/WFP survey.

In practice, children did not enjoy any more civil liberties than adults. The U.N. Committee on the Rights of the Child has repeatedly expressed concern over de facto discrimination against children with disabilities and the insufficient measures taken by the state to ensure that these children had effective access to health, education, and social services, and to facilitate their full integration into society.

Information about societal or familial abuse of children is unavailable. There were reports of trafficking in young girls among persons crossing the border into China (see Section 6.f.).

Persons with Disabilities.—Traditional social norms condone discrimination against persons with physical disabilities. Apart from veterans with disabilities, persons with disabilities were almost never seen within the city limits of Pyongyang, and several defectors and other former residents reported that persons with disabilities were routinely relocated to rural areas. Furthermore, some NGO reports claimed that these persons, along with some sick and elderly persons from the capital, were predominantly sent to the northeastern part of the country, where the Government reportedly no longer distributed international food aid. However, recent visitors to Pyongyang have reported seeing handicapped people on the streets of the capital. There are no legally mandated provisions for accessibility to buildings or government services for persons with disabilities.

Section 6. Worker Rights

a. The Right of Association.—Nongovernmental labor unions do not exist. The KWP purports to represent the interests of all labor. There is a single labor organization, the General Federation of Trade Unions of Korea. Operating under this umbrella, unions function on the classic “Stalinist model,” with responsibility for mobilizing workers to support production goals and for providing health, education, cultural, and welfare facilities.

The country is not a member of, but does have observer status with, the International Labor Organization.

b. The Right to Organize and Bargain Collectively.—Workers do not have the right to organize or to bargain collectively. Government ministries set wages. “Ideological purity” may be as important as professional competence in deciding who receives a particular job, and foreign companies that have established joint ventures report that all their employees must be hired from lists submitted by the KWP. Factory and farm workers are organized into councils, which do have an impact on management decisions. Unions do not have the right to strike.

Government officials have claimed that in the labor force “there are no riots, no strikes, and no differences of opinion” with management. It was not clear whether the economic changes being gradually introduced will have an impact on labor practices.

There is one free enterprise zone (FEZ) in the Rajin-Songbon area, and the creation of a Special Administrative Region in Sinuiju was announced in 2002. The same labor laws that applied in the rest of the country applied in the Rajin-Songbon FEZ, and it was believed that workers in the FEZ were carefully screened and selected.

c. Prohibition of Forced or Bonded Labor.—In its 2000 and 2001 reports to the U.N. Human Rights Committee, the Government claimed that its laws prohibit forced or bonded labor. However, the Government frequently mobilized the population for construction projects and for mass demonstrations and performances. Military conscripts were routinely used for these purposes as well. “Reformatory labor” and “reeducation through labor” were common punishments for political offenses. Forced labor, such as logging and tending crops, was common among prisoners.

The Constitution requires that all citizens of working age must work and “strictly observe labor discipline and working hours.” The Penal Code provides the death penalty for any individual who hinders the country’s industry, trade, or the transport system by purposely failing to fulfill a specific duty. It also states that anyone failing to carry out an assigned task properly is subject to at least 5 years in prison (see Section 6.e.).

d. Status of Child Labor Practices and Minimum Age for Employment.—According to the Constitution, the State prohibits work by children under the age of 16 years. There was no prohibition on forced labor by children, and school children may be assigned to factories or farms for short periods to help meet production goals (see Section 6.c.).

e. Acceptable Conditions of Work.—No data was available on the minimum wage in state-owned industries. Until the mid-1990s food crisis, wages and rations appeared to be adequate to support workers and their families at a subsistence level; however, in recent years that has no longer been the case. Wages are not the primary form of compensation since the State provides all educational and medical needs free of charge, and only token rent is charged. In 1997, KEDO, the international organization charged with implementation of a light-water reactor and other projects under the U.S.–DPRK Agreed Framework of 1994, concluded a protocol and a related memorandum of understanding concerning wages and other working conditions for citizens who work on KEDO projects. Under this protocol, unskilled laborers would have received approximately \$110 per month while skilled laborers would have been paid slightly more depending on the nature of the work performed. KEDO and the authorities were unable to agree on implementation of the protocol and only a limited number of laborers were employed. In November, KEDO Executive Board members suspended the project for 1 year effective December 1. According to news reports, workers in factories in an industrial park to be built near the border with South Korea are to be paid \$0.26 per hour.

Under laws punishing “anti-Socialist wrecking,” even persistent tardiness could be defined as a crime. However, as a result of food shortages, absenteeism reportedly became widespread, as more time had to be spent finding food.

The Constitution stipulates an 8-hour workday; however, several sources reported that most laborers worked from 12 to 16 hours daily when factories were operating. Some of this additional time appeared to include mandatory study of the writings of Kim Il Sung and Kim Jong Il. The Constitution provides all citizens with a “right to rest,” including paid leave, holidays, and access to sanitariums and rest homes funded at public expense. Paid leave was provided on public holidays, but on some holidays some persons were required to participate in mass demonstrations involving extra hours of preparation.

Many worksites were hazardous, and the rate of industrial accidents was high. It is believed that workers do not have the right to remove themselves from hazardous working conditions.

f. Trafficking in Persons.—There were no known laws specifically addressing the problem of trafficking in persons, and trafficking was a growing problem. There were widespread reports of trafficking in women and young girls into China. Some were sold by their families or by kidnappers as wives or concubines to men in China; others have fled on their own volition to escape starvation and deprivation in North Korea. A network of smugglers reportedly facilitated this trafficking. Many such women, unable to speak Chinese, were held as virtual prisoners, and some were forced to work as prostitutes.

REPUBLIC OF KOREA

The Republic of Korea (Korea) is governed by a directly elected president and a unicameral legislature. In December 2002, President Roh Moo-hyun was elected in free and fair elections to a single 5-year term of office. A free and fair National Assembly election was held in 2000, with another scheduled in 2004. The judiciary is independent under the Constitution, and is becoming increasingly so in practice.

Responsibility for maintaining internal security lies with the National Intelligence Service (NIS), the National Police Administration (NPA), and the Defense Security Command (DSC). The NIS and the DSC are legally barred from involvement in domestic politics, although the NIS is authorized to investigate organizations believed to support the Government of the Democratic People’s Republic of Korea (DPRK). Some members of the police were responsible for occasional human rights abuses.

During the year, the country’s economy grew by 3.0 percent. Unemployment remained under 3.4 percent. However, the country’s economic growth was dependent on key export products, and weakness in the financial system left the economy susceptible to unpredictable external conditions. The country’s population was 48,289,037.

The Government generally respected the human rights of its citizens; however, problems persisted in some areas. The police and prison personnel at times physically and verbally abused detainees, although human rights groups reported that

the number of such cases continued to decline. The National Security Law (NSL) curtailed free speech and press, peaceful assembly and association, and free travel. Domestic violence, rape, and child abuse remained serious problems. Women and minorities continued to face legal and societal discrimination. Many public sector employees did not enjoy the right of association. The Republic of Korea continued to be a significant country of origin, transit, and destination for trafficking in persons, particularly women and children for the sex trade and domestic servitude.

RESPECT FOR HUMAN RIGHTS

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

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

The Presidential Truth Commission on Suspicious Deaths continued to investigate and redress cases of government-sanctioned torture and killing of pro-democracy activists under the military regimes of the past. Since its inception in 2000, the Commission has reviewed 83 cases and confirmed 30 cases of suspicious deaths.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Penal Code prohibits mistreatment of suspects. The Government has ordered investigating authorities to protect the human rights of suspects, and allegations of abuse by authorities of those in custody continued to decline. Nonetheless, police sometimes abused persons in custody. Prosecutors continued to place emphasis on securing convictions through confessions, a focus driven by cultural factors, with confession viewed as a necessary basis for the reform and rehabilitation of convicted defendants. Credible sources reported that in some cases police verbally or physically abused suspects, including beatings, threats, and intimidation in the course of arrest and police interrogation. However, human rights groups reported fewer such cases during the year.

During the year, there were occasions when demonstrators used violent tactics, including firing nuts and bolts with slingshots and throwing Molotov cocktails. The police responded with commensurate force. Although some activists accused the police of brutality, most observers reported that police personnel acted in a disciplined and professional manner.

In recent years, under the National Public Service Law and criminal law, a number of police and security officials accused of abuse or harassment have been punished or disciplined through demotion, pay cuts, and dismissal. No police officials were charged under criminal law during the year for abuses committed while on duty.

The Government continued to investigate past abuses. For example, by year's end, the Commission for the Restoration of Honor and Compensation to Activists of the Democratization Movement, established in 2000 to review cases in which political activists may have been tortured, had reviewed 7,496 of the 11,901 cases submitted to it and determined that compensation was due in 402 of them.

Prison conditions and diets were spartan but met international standards. By year's end, the Government had installed floor heating and cooling systems in 35 of 44 prisons nationwide as part of a multi-year plan to upgrade the entire prison system. Traveling clinic teams visited prisons, and prison clinics were equipped with x-ray machines.

Inmates occasionally criticized guards for using excessive force or needlessly putting prisoners in manacles. The nongovernmental organization (NGO) Asian Legal Resource Center (ALRC), in a report to the U.N. Commission on Human Rights, criticized prison officials for disciplining prisoners by imposing multiple consecutive solitary confinement sentences. Under prison regulations, offending prisoners may be held in solitary confinement for a period of 2 months, but the ALRC alleged that officials routinely imposed consecutive terms, thus exceeding the 2-month limit. Inmates had access to reading materials, telephones, and television broadcasts. Education in computers and foreign languages, occupational training programs, and an Inmate Employment Center helped inmates prepare to resume normal lives. Most prisoners were allowed to receive up to five visitors four to six times per month. Some prisoners were allowed unlimited visits. Model prisoners who had served more than one-third of their sentences were allowed unsupervised meetings with visitors and were exempt from mail censorship. Some were eligible for overnight leave. Pregnant inmates received special treatment, including supplementary food, for the full term of their pregnancies and for an additional 6 months after giving birth. Pregnant inmates also received prenatal care for the full term of their pregnancies. Female inmates were not searched by male prison guards without the prior consent of the prison warden, and a female guard was present during such searches.

Female prisoners were segregated from male prisoners, and juveniles were segregated from adults.

The National Human Rights Commission monitored prison conditions through a prisoner petition system, in which prisoners could submit suggestions through a petition box in each prison. The Commission also conducted investigations and studies on medical equipment and facilities in prisons, provision of medical services, and conditions in military prisons. According to the Ministry of Justice, human rights NGOs are allowed to visit prisons by appointment and to submit recommendations to prison authorities.

d. Arbitrary Arrest, Detention, or Exile.—Laws regarding arrest and detention often are vague, and prosecutors have wide latitude to interpret them. For example, the NSL defines espionage in broad terms and permits the authorities to detain and arrest persons who commit acts viewed as supporting North Korea, and therefore deemed dangerous to the country. The NSL permits the imprisonment for up to 7 years of anyone who “with the knowledge that he might endanger the existence or security of the State or the basic order of free democracy, praised, encouraged, propagandized for, or sided with the activities of an anti-state organization.” The legal standard for what constitutes “endangering the security of the State” is vague. Thus, a number of persons have been arrested for what appeared to be the peaceful expression of views that the Government considered pro-North Korean or anti-state. Among those arrested under the NSL were persons who praised North Korea, its former leader Kim Il Sung, or North Korea’s “self-reliance” philosophy.

Between January and July, 43 persons were arrested for violating the NSL, and 15 persons remained in custody as of September 5. One high-profile case was that of Professor Song Du-yul, a longtime resident of Germany accused of supporting the North Korean regime (see Section 2.d.).

Because of the vagueness of the NSL and the invocation of classified security threat information regarding the Korean Peninsula, the Government is relieved of the burden of proof that any particular speech or action in fact threatened the nation’s security.

The U.N. Human Rights Committee has termed the NSL “a major obstacle to the full realization of the rights enshrined in the International Covenant on Civil and Political Rights.” Then-President Kim Dae-jung, who himself narrowly avoided a death sentence under the NSL, acknowledged in 2000 that the law had “problematic areas” and announced his intent to pursue major revisions, particularly in light of improvements in relations between North and South Korea since the June 2000 summit.

The National Police Agency is under the Ministry of Government Administration and Home Affairs. The approximately 93,000-member force has a national headquarters in Seoul, 5 special agencies including the Maritime Police, 13 provincial headquarters, 220 police stations, and 3,389 branch offices. The NPA was considered well disciplined, and corruption and impunity were not major problems.

The Criminal Code requires warrants in cases of arrest, detention, seizure, or search, except if a person is apprehended while committing a criminal act or if a judge is not available and the authorities believe that a suspect may destroy evidence or escape capture if not quickly arrested. In such emergency cases, judges must issue arrest warrants within 48 hours after the suspect is apprehended, or, if a court is not located in the same county, within 72 hours. Police may detain suspects who appear voluntarily for questioning for up to 6 hours but must notify the suspects’ families. The police generally respected these requirements.

Authorities normally must release suspects after 30 days unless an indictment is issued. Consequently, detained suspects were a relatively small percentage of the total prison population.

The Constitution provides for the right to representation by an attorney, including during police interrogation. There were no reports of access to legal counsel being denied. There is a bail system, but human rights lawyers said bail generally was not granted for detainees who were charged with committing serious offenses, might attempt to flee or harm a previous victim, or had no fixed address.

The Constitution and law neither provide for nor prohibit forced exile. The Government does not use forced exile, although some persons living abroad could face criminal charges if they returned to the country (see Section 2.d.).

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the judiciary showed increasing independence. The President appoints the Chief Justice and most justices of the Constitutional Court. Although judges do not receive life appointments, they cannot be fired or transferred for political reasons. The Prosecutor’s Office, under the jurisdiction of the Ministry of Justice (MOJ), has shown increased independence and impartiality. Early in the year, the Minister of

Justice initiated a new system of appointments and promotions based on merit rather than the previous traditional system based on seniority. Many civic organizations strongly endorsed these changes; however, some members of the opposition criticized them as "political interference." Late in the year, the Prosecutor's Office initiated an investigation into allegations of corruption and illegal campaign financing by both major parties during the 2002 presidential campaign, an investigation that the opposition Grand National Party (GNP) complained was biased.

During the year, one member of the National Assembly lost his seat for violating election law.

Local courts are presided over by judges who render verdicts in all cases. There is no trial by jury. Both defendants and prosecutors can appeal a verdict or a sentence to a district appeals court and to the Supreme Court. Constitutional challenges can be taken to the Constitutional Court.

The Constitution provides defendants with a number of rights in criminal trials, including the presumption of innocence, protection against self-incrimination, freedom from retroactive laws and double jeopardy, the right to a speedy trial, and the right of appeal. Although the Constitution prohibits double jeopardy, the courts have interpreted this provision to mean that a suspect cannot be indicted or punished more than once for the same crime. However, the prosecution can appeal a not guilty verdict or a sentence it considers excessively lenient; thus, a suspect may in fact be tried more than once for the same crime. When a person is detained, the initial trial must be completed within 6 months of arrest. These rights generally were observed. Trials were open to the public, but a judge could restrict attendance if he believed spectators might disrupt the proceedings.

Judges generally allowed considerable scope for examination of witnesses by both the prosecution and defense. Cases involving national security and criminal matters were tried by the same courts. Although few convictions were overturned, appeals often resulted in reduced sentences. Death sentences were appealed automatically.

It was difficult to estimate the number of political prisoners because it was not clear whether particular persons were arrested for merely exercising the rights of free speech or association, or were detained for committing acts of violence or espionage. A human rights group reported that, as of September, there were 109 political prisoners, including 37 students, 49 labor leaders, and 23 other dissidents. However, this group's definition of a political prisoner often included all persons imprisoned for politically motivated acts, including violations of the NSL, the Assembly and Demonstration Act, or the Trade Union Act, and for violence or interference with official duties in the course of demonstrations or strikes. Typically, on several occasions during the year, the Government grants special pardons or reinstatements of civil rights to persons, including some imprisoned for violations of the NSL or for engaging in violence during labor demonstrations.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The Government generally respected the integrity of the home and family. The Anti-Wiretap Law and the law to reform the NIS have curbed government surveillance of civilians, including political dissidents. The Anti-Wiretap Law lays out broad conditions under which the Government may monitor telephone calls, mail, and other forms of communication for up to 2 months in criminal investigations and 4 months in national security cases. Some human rights groups argued that illegal wiretapping, shadowing, and surveillance photography still occurred. They asserted that the lack of an independent body to investigate whether police have employed illegal wiretaps hindered the effectiveness of the Anti-Wiretap Law. They called for either tightening or abolishing a provision in the existing law that allows government officials to obtain retroactive judicial permission to monitor a conversation in the event of an emergency.

The Government continued to require some released prisoners to report regularly to the police under the Social Surveillance Law.

The NSL forbids citizens from listening to North Korean radio in their homes or reading books published in North Korea if the Government determines that they are doing so to help North Korea. However, this prohibition is rarely enforced, and the viewing of North Korean satellite telecasts in private homes is legal. The Government also allows the personal perusal of North Korean books, music, television programs, and movies as a means to promote understanding and reconciliation with North Korea. North Korean books were sold openly in a few shops. Student groups made credible claims that government informants were posted on university campuses.

The Korean Bar Association alleged that police installation of closed-circuit television cameras, as a crime prevention measure in Gangnam district, was an illegal infringement on privacy. Residents generally were supportive of the measure and believed it had reduced crime in the district.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Most political discourse is unrestricted, but, under the NSL, the Government may limit the expression of ideas that authorities consider Communist or pro-North Korean. Broad interpretations of the NSL allowed for restrictions on peaceful dissent. A bill to abolish the NSL, proposed in November 2000, and a bill to amend the NSL, proposed in April 2001, were still pending in the National Assembly's Legislation and Judiciary Committee at year's end.

Although the Government has abandoned direct control over the news media, there were instances in which it appeared to seek to exert pressure on media activities through direct lobbying, by conducting tax audits on news organizations and key journalists, or other legal or administrative measures. Libel laws have in the past been used to harass publishers for articles that were unflattering but not necessarily untrue. While no journalists were arrested or jailed for libel during the year, news organizations were subject to legal action. The Government Information Agency announced that opinion pieces such as editorials could be subject to legal action if they contained falsehoods. In August, President Roh brought a libel suit against the four major mainstream newspapers in the country. The Fair Trade Commission also began to monitor newspaper distribution sites for "unfair" trade practices such as distributing free copies or providing promotional gifts to new subscribers. Roh's actions against the news publications drew criticism from the International Federation of Journalists for infringing on freedom of the press.

The state-owned radio and television network maintained a considerable degree of editorial independence in its news coverage.

During the year, prosecutors indicted 18 persons under the NSL for producing, selling, or distributing pro-North Korean or pro-Communist materials. Court precedents allowed citizens to possess these kinds of publications for purely academic use, profit, or curiosity, but not with the intent of subverting the Government. Prosecutors had wide discretion in determining motives for possessing or publishing such materials.

There was frequent and diverse reporting on North Korea and North-South issues in the media. Reporting on these issues previously had been illegal or highly monitored.

The Government Censorship Board, which screens movies for sex and violence, followed more liberal guidelines in recent years and allowed the release of a broader range of films.

The Government blocked violent and sexually explicit websites, and required site operators to rate their site as harmful or not harmful to youth. Some homosexual groups charged that the Government acted discriminatorily in blocking their websites.

The Government did not restrict academic freedom. However, student groups credibly claimed that government informants were posted on university campuses.

b. Freedom of Peaceful Assembly and Association.—The Law on Assembly and Demonstrations prohibits assemblies that are considered likely to undermine public order. The law requires that the police be notified in advance of demonstrations of all types, including political rallies. The police must notify organizers if they consider an event impermissible under this law.

In October, the Constitutional Court found that provisions of the law that made it a crime to hold demonstrations within 100 yards of a foreign mission were unconstitutional. At year's end, the Government was considering an appeal.

In March, the Seoul police warned organizers of a series of "vigils" held in proximity to a foreign embassy that their vigils were taking the form of demonstrations. Reacting against this warning, 40 members of the organizing group tried to force their way into NPA headquarters. A number of persons were arrested.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Associations operated freely, except those deemed by the Government to be seeking to overthrow the Government.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. There is no state religion, and the Government did not subsidize or favor a particular religion. Government policy continued to contribute to the generally free practice of religion.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—Most citizens could move freely throughout the country; however, police had discretion to restrict the movements of some former prisoners. Foreign travel generally was unrestricted; however, the Government must approve travel to North Korea. To obtain approval, potential visitors must demonstrate that their trip does

not have a political purpose and is not undertaken to praise North Korea or criticize the Government. During the year, the Government continued to promote the expansion of North-South government, economic, cultural, and tourism-related contacts. However, travelers to North Korea who did not receive government permission were subject to arrest upon their return. There were five such cases during the year.

In the past, the Government forbade some citizens convicted of politically related crimes from returning to the country, and some citizens still faced sanctions if they chose to return. However, the current Roh administration appeared to be relaxing the Government's position. For example, dissident scholar Song Du-yul, who returned to the country in September after 37 years of self-imposed exile, was not arrested upon arrival, as some had predicted. He was accused of having urged a South Korean student to defect to the North, of having visited North Korea on numerous occasions without the Government's authorization, of being a member of the Korean Worker's Party (the North Korean Communist Party), and of being a member of the Party's Politburo. Song voluntarily presented himself for several days of questioning by the National Intelligence Service and was indicted on November 19 for violations of the NSL. His trial was underway at year's end.

The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other organizations in assisting refugees. In practice, the Government provided protection against refoulement, but did not routinely grant refugee or asylum status. Government guidelines provide for offering temporary refuge in the case of a mass influx of asylum seekers. According to the UNHCR, procedures for adjudicating asylum applications were substantially improved during the year, including an improved level of dialogue with the UNHCR on technical aspects of individual cases and an expansion of the decision-making body to include non-governmental experts. The Government's handling of asylum applications, although slow, became more flexible toward cases under review by the UNHCR. The Government suspended exit orders for these individuals. It also exercised flexibility toward persons whose applications were rejected in the government review process, but who the UNHCR found met the definition of refugee. However, procedures for receiving asylum applications were not always consistent with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. UNHCR continued to document instances in which asylum seekers encountered correctable difficulties in the application process, including the lack of independent and competent translators and a lack of basic counseling by government officials on asylum procedures. There were instances during the year when immigration officials told applicants that they had no reason to seek asylum.

In 2002, the Government extended the right to work to refugees, and during the year initiated a limited social assistance program for both refugees and asylum seekers. Convention refugees are eligible for the same national health insurance as are citizens, and two medical hardship cases were provided livelihood assistance grants by the Ministry of Justice due to their inability to pursue gainful employment. Asylum seekers are given 90-day extensions of their temporary stay permits while their applications are under review. Although legally barred from working during this period, in practice, most asylum seekers entered the labor market, as did other undocumented foreign workers.

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

The Constitution provides citizens 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 for all citizens 20 years of age or older. Elections are held by secret ballot.

The Constitution provides for the direct election of the president to a single 5-year term; the president may not stand for re-election. Representatives to the National Assembly are elected under a dual system of direct and proportional representation. Voters cast one vote for a candidate from their electoral district and a separate vote for a party; the percentage of votes for each party determines the number of that party's candidates who are elected as proportional representatives. The National Assembly members serve terms of 4 years and are not subject to a term limit.

At year's end, the 273-seat National Assembly included 15 female legislators. One of them chaired a special committee on women's affairs. Four of the 19 cabinet ministers were women: the Minister of Justice, the Minister of Health, the Minister of Environment, and the Minister of Gender Equality.

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

Many domestic nongovernmental organizations (NGOs) were active in promoting human rights, and they generally operated without government restriction. Chief among these groups were the Lawyers for a Democratic Society, Sarangbang, the Human Rights Committee of the National Council of Churches in Korea, the Korean Bar Association, People's Solidarity for Participatory Democracy, and Mingahyup, an association of the families of political prisoners. These groups published reports on human rights and made their views known both inside and outside the country. A number of high-level government officials were formerly associated with Lawyers for a Democratic Society. Government officials were willing to meet with international human rights groups.

The National Human Rights Commission, established by the Government in 2001, continued to monitor and investigate human rights violations and complaints of discrimination, including during interrogations and in correctional facilities. Members of the National Human Rights Commission were not permitted to be present at interrogations, but they were authorized to visit prisons and correctional institutions and to meet with persons who had been arrested and were in custody.

The work of the National Human Rights Commission was augmented and complemented by that of the Presidential Truth Commission on Suspicious Deaths (see Section 1.a.) and the Commission for the Restoration of Honor and Compensation to Activists of the Democratization Movement (see Section 1.c.).

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

The Constitution and law forbid discrimination on the basis of race, sex, religion, disability, or social status, and the Government generally respected these provisions. However, traditional attitudes limited opportunities for women and the disabled. Ethnic minorities, primarily foreign workers, were very small in number and faced both legal and societal discrimination.

Women.—Violence against women remained a problem. The Ministry of Gender Equality, established in 2001, reported that more women were coming forward to report abuse. The Prevention of Domestic Violence and Victim Protection Act defines domestic violence as a serious crime and enables authorities to order offenders to stay away from victims for up to 6 months. Offenders may also be placed on probation or ordered to see court-designated counselors. The law also requires police to respond immediately to reports of domestic violence.

Rape remained a serious problem. From January 1 through September 1, 3,914 cases of rape were reported, and 3,630 cases were prosecuted. Many rapes were believed to have gone unreported because of the stigma associated with being raped. The activities of a number of women's groups increased awareness of the importance of reporting and prosecuting rapes, as well as of offenses such as sexual harassment in the workplace. According to women's rights groups, cases involving sexual harassment or rape frequently went unprosecuted, and perpetrators of sex crimes, if convicted, often received light sentences. The penalty for rape is 3 years' imprisonment; if a weapon is used or two or more persons commit the rape, punishment may be a maximum of life imprisonment.

Prostitution is illegal but widespread.

The country was a major origin, transit, and destination point for trafficking in women and children destined for the sex trade and domestic servitude (see Section 6.f.).

From January through July, 90 cases were filed under the Gender Discrimination Prevention and Relief Act; 51 dealt with sexual harassment and 18 concerned employment discrimination (pregnancy, promotion, or salary). Under the law, companies could be fined up to \$2,500 (3 million won) for failing to take steps to prevent sexual harassment in the workplace or failing to punish an offender. The law also required companies to establish in-house sexual harassment complaint centers and prohibits firms from punishing employees for taking their complaints to outside organizations.

The Family Law permits women to head a household, recognizes a wife's right to a portion of the couple's property, and allows a woman to maintain greater contact with her children after a divorce. Although the law helped abused women who chose to divorce, the stigma of divorce remained strong, and there was little government or private assistance for divorced women. These factors, plus the fact that divorced women had limited employment opportunities and had difficulty remarrying, led some women to stay in abusive situations. However, according to a Ministry of Health and Welfare report the country now has one of the highest divorce rates in the world, with 47.4 percent of marriages ending in divorce. The Government has established some shelters for battered women and has increased the number of

childcare facilities, giving women in abusive situations more options. However, women's rights groups said these measures fell far short of effectively dealing with the problem.

The country's conservative traditions left women subordinate to men legally, socially, and economically. Despite the passage of equal employment opportunity legislation, few women worked as company executives, and sexual discrimination in the workplace remained a problem. The Equal Employment Act has been revised to impose tougher penalties on companies found to discriminate against women in hiring and promotions. Under the law, the Presidential Commission on Women's Affairs (the precursor of the existing Ministry of Gender Equality) was granted the authority to investigate sexual discrimination cases in the workplace. A company found guilty of practicing sexual discrimination could be fined up to \$4,167 (5 million won) and have its name published in the newspaper. The law also provides for a public fund to support victims in seeking legal redress. Nevertheless, some government agencies' preferential hiring of applicants with military service (nearly always men) perpetuated legal barriers against women, despite a 1999 Constitutional Court ruling that such preferential hiring discriminated against women and disabled persons and was unconstitutional.

Women had full access to education, and social mores and attitudes were changing gradually. For example, the major political parties made more efforts to recruit women, and an increasing number of women occupied key party positions. The military and service academies also continued to expand opportunities for women.

The Government provided an allowance of \$446 (535,000 won) per month to 137 former "comfort women" (women who, during World War II, were forced to provide sex to soldiers of the Japanese Imperial Army).

Children.—The Government demonstrated its commitment to children's rights and welfare through public education. The Government provided high-quality elementary education to all children free of charge. Education is compulsory through the age of 15, and most children obtained a good secondary education. High-quality health care was widely available to children.

As public awareness of the problem of child abuse continued to grow, the number of reported cases increased. According to one NGO's figures, approximately 363 cases were reported from January 1 through September 1. The Seoul metropolitan government ran a children's counseling center that investigated reports of abuse, counseled families, and cared for runaway children. The Prevention of Domestic Violence and Victim Prevention Act of 1998 allows a child to bring charges against a parent in cases of abuse. Since then, the Government has established a child abuse hotline, as well as temporary protection facilities, counseling centers, communal homes, and other protection services and facilities. Revisions since 1998 also included increased penalties for convicted child abusers, who faced up to 5 years in prison (compared to the previous 2 years) for child abuse.

Since 1999, the Youth Protection Law has provided for prison terms of up to 10 years and a fine of \$8,333 (10 million won) per minor hired for owners of entertainment establishments who hired minors under the age of 19. The Commission on Youth Protection also expanded the definition of "entertainment establishment" to include facilities, such as restaurants and cafes, where children were hired illegally as prostitutes. In 2000, the Government enacted the Juvenile Sexual Protection Act, which established a maximum sentence of 20 years' imprisonment for the sale of the sexual services of persons younger than 19 years of age. It also established prison terms for persons convicted of the purchase of sexual services of youth under the age of 19 (see Section 6.f.). Based on this law, the Commission enforced a decree to publicize the names of those who had committed sex offenses against minors. As of September, the names of 643 sexual offenders had been made public, with another 640 to be publicized in December.

The traditional preference for male children continued, although it was less evident among those in their twenties and thirties. Although the law bans fetal testing except in cases in which a woman's life is in danger, hereditary disease could be transmitted, or in cases of rape or incest, such testing and the subsequent abortion of female fetuses frequently occurred. The Government expressed concern about the widening disparity between male and female birth rates.

Persons with Disabilities.—Discrimination against persons with disabilities in employment, education, or the provision of other state services is illegal. The law states, "No one shall be discriminated against in all areas of political, economic, social, and cultural life on the grounds of disability." Although measures aimed at creating opportunities for persons with disabilities have been taken, public facilities remained inadequate.

Firms with over 300 employees are required by law either to hire persons with disabilities or pay a fine. Surveys indicated that most companies either paid the fine or evaded the law; a 1999 survey indicated that 9 out of 10 firms with more than 300 employees failed to meet the mandated 2 percent job quota for persons with disabilities. The hiring of persons with disabilities remained significantly below target levels. Persons with disabilities made up less than 1 percent of the work force. New public buildings were required to include facilities for persons with disabilities, such as ramp access to entrances, wheelchair lifts, and special parking spaces. The Health and Welfare Ministry announced that existing government buildings must be retrofitted with these facilities, and, as of September, 98 percent of major public buildings had facilities for persons with disabilities. In 2002, after two persons with disabilities were killed in accidents involving wheelchair lifts, the Government embarked on a plan to install elevators at all subway stations. As of September, there were 304 elevators in service; all 492 subway stations are scheduled to have elevators installed by April 2005.

National/Racial/Ethnic Minorities.—The country is racially homogeneous, with no sizable populations of ethnic minorities. Except in cases of naturalization, citizenship is based on parentage, not place of birth, and persons must show their family genealogy as proof of citizenship. Naturalization is a difficult process requiring detailed applications, a long waiting period, and a series of investigations and examinations. Because of the difficulty of establishing Korean citizenship, those not ethnically Korean remained “foreign,” thus disqualifying them legally from entering the civil service and, in practice, being hired by some major corporations. According to a Human Rights Commission survey, 50.7 percent of foreign workers reported that they experienced mockery and verbal attacks in the workplace. Amerasians faced no legal discrimination, but informal discrimination was prevalent.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides workers, except public sector employees, with the right to associate freely. White-collar government workers may form “workplace councils,” and blue-collar government workers may organize unions.

Labor law changes in 1997 authorized the formation of competing unions starting in 2002, but implementation of these changes was postponed until 2006 by mutual agreement among members of the Tripartite Commission, which includes representatives of the Government, labor, and management (see Section 6.b.). According to the International Confederation of Free Trade Unions (ICFTU), the consequence of a lack of competing unions is that employers can create their own management-controlled unions. All unions are required to notify the authorities when formed or dissolved. According to the Ministry of Labor 1.6 million workers, approximately 11.6 percent of employed workers, were union members, and there were 6,506 trade unions.

In the past, the Government formally recognized only two labor federations: the Federation of Korean Trade Unions (FKTU) and the Independent Korean Federation of Clerical and Financial Workers. In recent years, the Government has recognized independent white-collar federations representing hospital workers, journalists, and office workers at construction firms and at government research institutes. In 1999, the legalization of the teachers’ unions paved the way for government recognition of the militant Korean Confederation of Trade Unions (KCTU). The two teachers’ unions, the KCTU-affiliated Korean Teachers’ Union (Chonkyojo) and the FKTU-affiliated Korean Union of Teachers and Educational Workers, have the right to bargain collectively with the Ministry of Education on wages and working conditions but not school curricula; it is illegal for the unions to strike. In practice, however, even those labor federations not formally recognized by the Labor Ministry have operated without government interference.

The FKTU and KCTU were affiliated with the International Confederation of Free Trade Unions (ICFTU). Most of the FKTU’s 20 constituent federations maintained affiliations with international trade secretariats, as did the KCTU Metalworkers Council.

b. The Right to Organize and Bargain Collectively.—The Constitution and the Trade Union Law provide for the right of workers to collective bargaining and collective action. This law also empowers workers to file complaints of unfair labor practices against employers who interfere with union organizing or who discriminate against union members. Employers found guilty of unfair practices can be required to reinstate workers fired for union activities. According to the FKTU, this occurred frequently. The Tripartite Commission established a subcommittee on the protection of civil servants’ basic rights and has discussed the establishment of a civil servants’ union.

Extensive collective bargaining was practiced, even with unions whose federations were not recognized legally by the Government. However, labor laws do not extend the right to organize and bargain collectively to defense industry workers or white-collar government employees, who may form “workplace councils” and make recommendations but may not engage in collective bargaining.

The Labor Dispute Adjustment Act requires unions to notify the Labor Ministry of their intention to strike. It mandates a 10-day “cooling-off period” before a work stoppage legally may begin and 15 days’ notice in public interest sectors. Labor laws prohibit retribution against workers who have conducted a legal strike and allow workers to file complaints of unfair labor practices against employers.

Strikes are prohibited in government agencies, state-run enterprises, and defense industries. By law, unions in enterprises determined to be of “essential public interest”—including public transportation, utilities, public health, banking, and telecommunications—can be ordered to submit to government-ordered arbitration. However, in practice the Government rarely imposed arbitration.

There were 319 strikes and 49 lockouts involving a total of 137,241 workers and a loss of 1,298,663 working days.

According to the KCTU, through September, 213 persons were arrested for allegedly instigating violent strikes or illegally disrupting business during the year, of whom 62 were still imprisoned at year’s end. Police sometimes dispersed demonstrations that were determined to be violent or potentially violent. For example, in June, police dispersed a rally of striking railroad workers and briefly detained 1,749 of them.

During the year, there were at least three suicides by labor leaders who were the targets of legal actions for having led illegal strikes.

There is no independent system of labor courts. The central and local labor commissions form a semiautonomous agency of the Labor Ministry that adjudicates disputes in accordance with the Labor Dispute Adjustment Law. Each commission is composed of equal numbers of representatives of labor and management, plus neutral experts who represent the “public interest.” Local commissions can decide on remedial measures in cases involving unfair labor practices and can mediate and sometimes arbitrate labor disputes. Arbitration can be made compulsory in sectors of the economy (for example, utilities and transportation) deemed essential to public welfare.

In 1998, the Government established the Tripartite Commission, with representatives from labor, management, and the Government, to deal with labor issues related to the economic downturn. The Tripartite Commission concluded an agreement that year covering, among other things, unemployment policy, corporate restructuring, labor conditions, labor market flexibility, and the promotion of basic labor rights. The work of the Commission made it legal for companies to lay off workers due to economic hardship and authorized temporary manpower agencies.

Under the 1997 labor laws, persons who assist trade unions or employers in a dispute are required to register with the Ministry of Labor. Those who fail to do so face a large fine or a maximum sentence of 3 years’ imprisonment. However, no one has been charged for failing to register.

The Government originally designated enterprises in the two export processing zones (EPZs) as public interest enterprises. Workers in these enterprises gradually have been given the rights enjoyed by workers in other sectors of the economy. Labor organizations are permitted in EPZs.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or bonded labor, including forced or bonded labor by children, and it was not known to occur. The Constitution provides that no person shall be punished, placed under preventive restrictions, or subjected to involuntary labor, except as provided by law and through lawful procedures.

Some illegal foreign workers alleged beatings, forced detention, withheld wages, and seizure of passports by their employers (see Section 6.e.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Labor Standards Law prohibits the employment of persons under age 15 without a special employment certificate from the Labor Ministry. Because education is compulsory through middle school (approximately age 15), few special employment certificates were issued for full-time employment. To obtain employment, children under age 18 must obtain written approval from either parents or guardians. Employers can require minors to work only a limited number of overtime hours and are prohibited from employing them at night without special permission from the Labor Ministry. Child labor laws and regulations are clear and were usually enforced when violations were found, but critics claimed that the Government employed too few inspectors to carry out regular inspections.

e. Acceptable Conditions of Work.—The minimum wage is reviewed annually. As of September, the minimum wage was \$2.09 (2,510 won) per hour, \$16.73 (20,080 won) per day, or \$472.17 (567,260 won) per month. Companies with fewer than 10 employees were exempt from this law. The FKTU and other labor organizations asserted that the existing minimum wage did not meet the basic requirements of urban workers. However, the money an average blue-collar worker took home in overtime and bonuses significantly raised the total compensation package. According to the Ministry of Health and Welfare, 1.4 million persons (2.9 percent of the population) lived below the poverty level. Another 3.2 million persons were classified as living in “potential extreme poverty.”

The Labor Standards Law was amended in September to provide for a maximum regular workweek of 40 hours, and provides for a higher wage for overtime. However, the overtime premium will be reduced from 150 percent of the base wage to 125 percent concurrent with the reduction in weekly working hours. Labor law mandates a 24-hour rest period each week. Several firms have already negotiated new contracts with their unions that reduced the workweek to 40 hours, i.e., five 8-hour days, with no reduction in annual leave days or total wages. Labor laws also provide for a flexible hours system, under which employers can require laborers to work up to 44 hours during certain weeks without paying overtime, so long as average weekly hours for any given 2-week period do not exceed 40 hours. If a union agrees to a further loosening of the rules, management may ask employees to work up to 56 hours in a given week. Workers may not be required to work more than 12 hours per working day. Labor groups claimed that the Government did not enforce adequately the maximum workweek provisions at small companies.

Foreign workers, mostly from China, Bangladesh, Mongolia, the Philippines, Thailand, Nepal, Vietnam, Indonesia, Sri Lanka, and Pakistan, often faced difficult working conditions. Under legislation enacted in July, approximately 227,000 illegal foreign workers were eligible for a 2-year extension of their stay, but an additional 120,000 (those who had illegally overstayed their visas by more than 4 years) were subject to arrest and deportation. The Ministry of Labor warned employers to pay workers subject to deportation all their back wages. Workers injured in industrial accidents were to be allowed to remain in Korea until they had recovered, and those suing employers would be allowed to stay until their suits had been resolved.

The Foreign Workers Human Rights Commission has met three times since its establishment in 2000 to hear complaints from foreign workers and to discuss methods of controlling violations of foreign workers' rights, including unpaid wages. The Commission concluded that the Ministry of Gender Equality, Ministry of Labor, KNPA, and the Medium and Small Business Administration should cooperate to implement these measures.

Foreign workers working as language teachers have complained that the language institutes frequently violated employment contracts, for which the legal system provided insufficient redress.

The Government has set health and safety standards, but the accident rate was high by international standards. However, this rate continued to decline gradually due to improved occupational safety programs and union pressure for better working conditions. Although the number of inspectors has increased, the Labor Ministry still lacked sufficient inspectors to enforce the laws fully. The law does not provide job security for workers who remove themselves from dangerous work environments.

f. Trafficking in Persons.—There is no single law that specifically prohibits trafficking in persons; however, various laws can be used to prosecute traffickers, including laws against kidnapping, inducement to prostitution, and laws protecting juveniles. These laws stipulate that proper security measures as well as financial assistance must be provided to trafficked victims when they report a trafficking crime. The Labor Standards Law prohibits the employment of any person under 18 years of age in work that “is detrimental to morality or health.” The Juvenile Sexual Protection Act, which took effect in 2000, imposes lengthy prison terms for persons convicted of sexual crimes against minors (see Section 5).

Despite these legal prohibitions against trafficking in persons, the Republic of Korea was a country of origin, transit, and destination for trafficking in persons. As a country of origin, women were trafficked primarily for sexual exploitation to the United States, as well as to other Western countries and Japan. Relatively small numbers of economic migrants, seeking opportunities abroad, were believed to have become victims of traffickers as well.

The country was considered a major transit point for alien smugglers, including traffickers of primarily Asian women and children for the sex trade and domestic servitude. Women from many countries, primarily China, were trafficked through Korea to the United States and many other parts of the world. There were reports of the falsification of government documents by travel agencies; many cases involved

the trafficking or smuggling of Chinese citizens to Western countries. In addition to trafficking by air, much transit traffic occurred in the country's territorial waterways by ship.

Women from the Philippines and Russia were trafficked to the country for sexual exploitation. They were recruited personally or answered advertisements and were flown to Korea, often with entertainer visas. In some cases, employers held victims' passports.

In 2001, the Supreme Prosecutor's Office established joint investigations centers in collaboration with the police force and local governments to address trafficking and inveigling of women for forcible sexual exploitation, forcible transfer to foreign territory for employment in "service establishments of indecent nature," illegal entry into the country for purposes of sexual exploitation, the sale of women between prostitution establishments, and departures from the country through fake employment or marriage overseas.

As a result of tightened restrictions on "entertainer" visas, applicants for this type of visa must now be interviewed in their home country by a Korean consular official. The Government also instituted restrictions on the types of establishments in which foreign entertainers may be employed. The National Police Administration initiated a program of informing foreign employees of bars and similar establishments of their rights, and, in cooperation with the Ministry of Gender Equality, established a multilingual hotline for victims of trafficking.

At year's end, 792 persons had been investigated for suspected trafficking, of whom 135 were arrested. In addition, 139 suspected visa brokers and alien smugglers were investigated for violation of the Stowaway Control Law, of whom 137 were prosecuted. Additionally, 552 persons were investigated on charges of violation of the Passport Law, of whom 489 were prosecuted.

Various laws stipulate that appropriate facilities, such as temporary shelters, as well as counseling assistance, medical treatment, and occupational training programs, be provided to protect and assist trafficking victims. In 2002, the latest year for which statistics were available, 116,664 calls were received by hotlines dealing in women's issues. There were 25 guidance and protection facilities, used by 1,634 persons; 92 sexual assault counseling centers, with 48,112 cases reported; 12 protection facilities for victims of sexual violence and of trafficking, used by 193 persons; 142 counseling centers for family violence, with 177,413 cases reported; and 32 protection facilities for victims of family violence, used by 3,553 persons.

Prostitution is illegal but widespread. The Ministry of Gender Equality conducted a comprehensive survey of the sex industry in 2002 that concluded that as many as 500,000 women, Korean and foreign, engaged in some form of prostitution in Korea. The study estimated that the country's sex industry had generated \$22 billion (26 trillion won) in profits that year.

The Government worked with various NGOs to develop awareness of the issue and help prevent trafficking. Some foreign women working in the entertainment industry were advised of their rights in an orientation program organized by the National Police Agency. The police cooperated with officials of the Philippine, Russian, and other embassies in investigating and attempting to resolve various trafficking-related issues and disputes.

LAOS

The Lao People's Democratic Republic is an authoritarian, Communist, one-party state ruled by the Lao People's Revolutionary Party (LPRP). Although the 1991 Constitution, amended in 2003, outlines a system composed of executive, legislative, and judicial branches, in practice, the LPRP continued to control governance and the choice of leaders at all levels through its constitutionally designated "leading role." In April 2002, the National Assembly reelected the President and Vice President and ratified the President's selection of a prime minister and cabinet. The judiciary was subject to executive influence.

The Ministry of Public Security (MOPS, formerly known as the Ministry of Interior) maintains internal security but shares the function of state control with the Ministry of Defense's security forces and with party and popular fronts (broad-based organizations controlled by the LPRP). The Ministry of Foreign Affairs, with MOPS support, is responsible for oversight of foreigners. The MOPS includes local police, immigration police, security police (including border police), and other armed police units. Communication police are responsible for monitoring telephone and electronic communications. The armed forces are responsible for external security but also have domestic security responsibilities that include counterterrorism and

counterinsurgency activities and control of an extensive system of village militias. Civilian authorities generally maintained effective control over the security forces. Some members of the security forces committed serious human rights abuses.

The country is extremely poor with an estimated population of 5.5 million. The economy is overwhelmingly agricultural, with 85 percent of the population engaged in subsistence agriculture. The sharp income inequality between participants in the monetary economy and those in the subsistence economy was demonstrated by the fact that the mean annual income was just over \$300 and the per capita gross domestic product was estimated at \$1,700. Since 1986, the Government has abandoned most of its socialist economic policies in favor of market-based policies. It officially welcomed foreign investment and was gradually strengthening its legal framework, including laws to protect property rights, but a reluctance to embrace far-reaching reforms has slowed the process. The country was heavily dependent on official foreign aid and on remittances from citizens living or working abroad.

The Government's human rights record remained poor, and it continued to commit serious abuses. Citizens did not have the right to change their government. Members of the security forces abused detainees, especially those suspected of insurgent or anti-government activity. Heightened insurgent activity and the Government's response resulted in scores of civilian casualties during the year. Prisoners were sometimes abused and tortured, and prison conditions generally were extremely harsh and life threatening. Police used arbitrary arrest, detention, and surveillance. Lengthy pretrial detention and incommunicado detention were problems. The judiciary was subject to executive, legislative, and LPRP influence, was corrupt, and did not ensure citizens due process. The Government infringed on citizens' privacy rights and restricted freedom of speech, the press, assembly, and association. The Government continued to restrict freedom of religion, and police and provincial authorities arrested and detained approximately 30 members of Christian churches. At year's end, 13 members of religious communities were in custody or under arrest for their religious beliefs. In some areas, ethnic minority Protestant communities continued to be pressured to renounce their faith. On several occasions, Christians were threatened with expulsion from their villages for refusing to renounce their religion. In one case, senior government officials intervened to prevent an expulsion. A small number of churches were closed during the year, while others were allowed to reopen. Authorities in some areas refused requests from Christian congregations to build new churches or to reopen closed churches. The Government imposed some restrictions on freedom of movement. Societal discrimination against women and minorities persisted, although the Government actively supported a policy of encouraging greater rights for women, children, persons with disabilities, and minorities. The Government restricted some worker rights. Trafficking in women and children was a problem.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—In August, a Christian and former policeman in Attapeu Province was reportedly detained by police on unspecified charges. The body of the detained man was discovered buried in a shallow grave 3 days later. Friends and family of the dead man assumed that he was killed by the police who detained him, but they were unsure of the motive for his killing.

As a result of intensified insurgent attacks against civilian targets, security forces increased counterinsurgency operations, leading to unconfirmed reports of deaths of ethnic Hmong villagers in connection with security sweeps in remote parts of Saisomboun Special Zone, Xieng Khouang, and Houaphanh Provinces.

Relatively quiescent in recent years, the long-running anti-government insurgency increased its activities during the year, resulting in scores of civilian and military casualties. In February, a group of armed insurgents, identified by witnesses as ethnic Hmong, ambushed a bus and other vehicles traveling along Route 13 north of Vang Vieng town in Vientiane Province, killing 10 persons, including 2 Swiss citizens and 1 Chinese citizen. In April, another ambush of a civilian bus on Route 13 near Phoukoun, South of Luang Prabang, resulted in 12 persons killed, many of whom were students on their way home from the Lao New Year's holiday. Witnesses also identified these attackers as ethnic Hmong. After attacking the bus, the attackers doused it with gasoline and ignited it, burning the bodies of the dead and seriously injuring passengers on board.

During the year, there were more organized attacks against symbols of government authority. A group calling itself the Lao Citizens Movement for Democracy proclaimed an "uprising" against the Government in June. That proclamation was immediately followed by an attack by an armed group of insurgents of unknown eth-

nicity against a customs post in a remote area of Sayaboury Province on the border with Thailand. Thai and Lao police and military forces repelled the attack, but a child was reportedly injured in the clash. In August, insurgent raiders killed three Lao officials during another cross-border attack in Sayaboury Province. Also in August, ethnic Hmong in Houaphanh Province launched a series of coordinated attacks on government outposts in an apparent effort to seize weapons located in a government arsenal in Viengsai town. The attack against the arsenal was repulsed, but in the aftermath, the rebels fired on a bus and motorcycle traveling to a market, killing five passengers. Five of the attackers were also killed when security forces caught up with them shortly after the vehicle ambush. Following this incident, fighting broke out between rebels and government troops in several areas of Houaphanh Province; at least 13 soldiers and probably several dozen Hmong rebels were killed in this fighting, and over 100 Hmong villagers suspected of supporting the rebellion were arrested and detained in the provincial capital. The uprising displaced over 1,000 Hmong villagers, many of whom sought safety in the provincial capital. There were unconfirmed reports of civilians being killed by security forces as part of the campaign to quell this local uprising.

During the year, several bombings occurred throughout the country. In June, an explosive device detonated on a long-distance bus traveling on Route 13 near Thakhek, killing one passenger and injuring several others. In August, a bomb exploded outside the central bus station in Vientiane, injuring as many as a dozen persons. In September, a military court sentenced two active duty soldiers to life imprisonment for the 2000 and 2002 bombings in Vientiane. In October and November, bombings in Vientiane and Savannakhet caused some property damage, but resulted in no injuries. A group calling itself the Free Democratic Government Committee of the Lao People claimed responsibility for these, as well as other bombings that had occurred since 2000.

b. Disappearance.—In March, police in Vientiane Province arrested two ethnic Hmong former insurgents on charges of having been involved in the February Vang Vieng bus ambush. Authorities did not notify the suspects' families of the arrests, and both men were missing for more than a month. The families were finally able to locate both men at the provincial jail. The men were subsequently absolved of involvement in the Vang Vieng ambush and released.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution and the Penal Code prohibit torture; however, in practice, members of the security forces subjected prisoners to torture and other abuses. Credible sources reported that detainees sometimes were subjected to beatings, long-term solitary confinement in completely darkened rooms, and burning with cigarettes. In some cases, detainees were held in leg chains or wooden stocks. During the year, several persons arrested for religious activity or suspected insurgent activity were held in wooden stocks or shackles for part of their confinement.

Prison conditions generally are extremely harsh and life threatening. Food rations were minimal, and most prisoners relied on their families for their subsistence. The Government discriminated in its treatment of prisoners, restricting the family visits of some and prohibiting visits to a few. Credible reports indicated that ethnic minority prisoners and some foreign prisoners were treated particularly harshly. Prison authorities used degrading treatment, solitary confinement, and incommunicado detention against perceived problem prisoners, especially suspected insurgents. On occasion, the authorities used incommunicado detention as an interrogation method; in isolated cases, this was life threatening when prisoners were detained in such conditions for lengthy periods. There were confirmed reports that, in a few jails, prisoners were placed in leg chains, wooden stocks, or fixed hand manacles for extended periods (see Section 2.c.). Medical facilities were extremely poor or nonexistent. Some prisoners died as a result of abusive treatment and lack of medical care. Prison conditions for women were similar to those for men. Prisons held both male and female prisoners, although they were placed in separate cells. Juveniles were housed together with adult prisoners.

In June, police in Xieng Khouang Province arrested six persons on charges of having conspired with ethnic Hmong insurgents in the killing of a local militia villager. The six persons included a French journalist and a Belgian journalist, who were in the country to research secretly the plight of a band of Hmong insurgents living in Saisomboun Special Zone, their ethnic Hmong foreign translator, and three local ethnic Hmong porters. The six were in the company of a band of insurgents, waiting to return to the Xieng Khouang provincial capital after having spent several days visiting an insurgent base camp in the forest, when local militia villagers clashed with the group. During the clash, a militia villager was killed. After the six were arrested, they were taken to the provincial capital and held in extremely Spartan

conditions for more than a week, during which time the three Lao citizens were reportedly beaten. During this time, one of the three Lao citizens escaped. The remaining five prisoners were subsequently taken to Vientiane and held at Phonetong Prison, where their conditions improved and they reported no further mistreatment. The five were later tried in Xieng Khouang, found guilty of “conspiring to cause the death of an official on duty” and “possession of explosives” and sentenced to 15 years imprisonment. In response to diplomatic intercessions, the Government released and deported the three foreigners; however, the two Lao citizens remained incarcerated at year’s end. Human rights groups criticized the continued incarceration of the two citizens, on the grounds that they were only paid porters for the journalists and were not guilty of the charges under which they were convicted.

Several international human rights groups repeated their longstanding requests to the Government to move two political prisoners to a prison with better conditions, including more modern medical facilities (see Section 1.e.). The Government continued to ignore these pleas, as well as other representations regarding use of torture and abusive treatment.

The Government has provided limited access to some detention facilities to U.N. personnel monitoring the status of juveniles in the prison system, and has given limited access to two provincial prisons to representatives of the Swedish Government; however, the Government generally did not permit independent monitoring of prison conditions, including by foreign individuals or organizations. The International Committee of the Red Cross (ICRC) requested access to prisons; however, the Government did not grant access by year’s end.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution and law prohibit arbitrary arrest and detention; however, in practice the Government did not respect these provisions, and arbitrary arrest and detention remained problems. Police sometimes used arrest as a means of intimidation or to extract bribes. Police exercised wide latitude in making arrests, relying on exceptions to the requirement for arrest warrants for those in the act of committing a crime or for “urgent” cases. Incommunicado detention was a problem (see Section 1.c.). There is a 1-year statutory limit for detention without trial; the length of detention without a pretrial hearing or formal charges by law also is limited to 1 year; however, these limits often were ignored in practice. The Office of the Prosecutor General must authorize police to hold a suspect pending investigation. Authorization is given in 3-month increments, and, in theory, after a maximum of 1 year, a suspect must be released if police do not have sufficient evidence to bring charges. Access to family members and a lawyer was not assured. There is a bail system, but its implementation was arbitrary. A statute of limitations applies to most crimes. In practice, alleged violations of criminal laws have led to lengthy pretrial detentions without charge and minimal due process protection of those detained. Authorities sometimes continued to detain prisoners after they had completed their sentences, particularly in cases where prisoners were unable to pay court fines.

During the year, government authorities arrested and detained approximately 50 Christians. Although most of these persons were released shortly after their detention, some of them, notably 12 members of a group of 21 ethnic Brou arrested in Savannakhet Province in May, were held for months allegedly for other offenses (see Section 2.c.). According to confirmed reports, there were 11 untried religious detainees at year’s end.

In August, police in Houaphanh Province detained over 100 ethnic Hmong villagers suspected of involvement in anti-government activities. Most of those detained were taken to the provincial capital for questioning. Reportedly, most of the persons detained were later released, but a number of persons identified as suspected insurgents were later transferred to Vientiane for further questioning and were still detained at year’s end.

Police continued to arrest without charges any persons suspected of involvement with the insurgency. For example, in August, an ethnic Hmong in Muang Feuang district of Vientiane Province was arrested on suspicion of having been in contact with insurgent elements in Saisomboun Special Zone. Two former insurgents were likewise held without charges for 2 months on suspicion of being involved with insurgent groups (see Section 1. b.).

Police in some instances administratively overruled court decisions, at times detaining a defendant exonerated by the court, in violation of the law (see Section 1.e.). Local police at times also continued to detain persons who had been ordered released by higher authorities. Police held two ethnic Hmong, who were arrested in Vientiane Province in March on suspicion of having been involved with insurgents, for several weeks after senior officials in Vientiane ordered their release (see Section 1. b.). There were no known instances of the police being reprimanded or punished for such behavior.

An unknown number of persons were in detention for suspicion of violations of criminal laws concerning national security, particularly persons suspected of insurgent activities. Security-related laws were sometimes applied to routine criminal actions to justify long periods of incarceration without trial.

The Government did not use forced exile; however, a small group of persons, who fled the country at the time of the change in government in 1975 and who were tried in absentia for anti-government activities, did not have the right of return (see Section 2.d.).

e. Denial of Fair Public Trial.—The Constitution provides for the independence of the judiciary and the Prosecutor General's Office; however, senior government and party officials influenced the courts, although perhaps to a lesser degree than in the past. Impunity was a problem, as was corruption. Many observers reported that judges could be bribed. Under the 2003 amendments to the Constitution, the National Assembly Standing Committee appoints judges for life terms rather than the previously mandated 5-year terms; the executive appoints the Standing Committee. The Assembly may remove judges from office for "impropriety." Since 1991, only one judge at the district level has been removed for improper behavior.

Under the amended Constitution, the People's Courts have four levels: District courts, municipal and provincial courts, the Court of Appeals, and the Supreme People's Court. Decisions of the lower courts are subject to review by the Supreme Court, but decisions by military courts are not subject to the Supreme Court's review. Both defendants and prosecutors in civilian courts have the right to appeal an adverse verdict. There are instances in which civilians may be tried in the military courts, but this reportedly was rare.

The Constitution provides for open trials in which defendants have the right to defend themselves with the assistance of a lawyer or other person. The Constitution requires that the authorities inform persons of their rights. The law states that defendants may have anyone assist them in preparing a written case and accompany them at their trial; however, only the defendant may present oral arguments at a criminal trial. The Lao Bar Association, with a membership of nearly 50 attorneys, operates under the direction of the Ministry of Justice. Its members are private attorneys that court litigants may select for trials. For several reasons, including lack of funds, a shortage of attorneys, and a general perception that attorneys cannot affect court decisions, most defendants do not have attorneys or trained representatives. In theory, under the law defendants enjoy a presumption of innocence; however, in practice trial judges usually decided a defendant's guilt or innocence in advance, basing their decisions on the result of police or Prosecutor's Office reports. Reliance on these reports created a presumption that the defendant is guilty. Most trials were little more than pro forma examinations of the accused, with a verdict having already been reached. Most criminal trials reportedly ended in convictions. Defendants sometimes were not permitted to testify on their own behalf. Trials for alleged violations of some criminal laws relating to national security and trials that involved state secrets, children under the age of 16, or certain types of family law were closed.

Most of the country's 450 judges had only basic legal training, and many had few or no references upon which to base their decisions. The National Assembly's Legal Affairs Committee occasionally reviewed Supreme Court decisions for "accuracy" and returned cases to the Court or the Prosecutor General's Office for review when it felt a decision had been reached improperly.

In some instances, police administratively overruled court decisions, at times detaining a defendant exonerated by the court, in violation of the law.

In addition to the hundreds of short- and long-term political detainees (see Section 1.d.), there were nine known political prisoners. Two former Royal Lao Government officials arrested in 1975, Colonel Sing Chanthakoumane and Major Pang Thong Chokbengvoun, were serving life sentences after trials that did not appear to be conducted according to international standards. Two former government officials, Latsami Khamphoui and Feng Sakchittaphong, were arrested in 1990 for advocating a multiparty system and criticizing restrictions on political liberties and were not tried until 1992. They were serving 14-year sentences based on their 1992 convictions. Reportedly both men were in ill health. Five persons arrested in October 1999 for attempting to organize a pro-democracy demonstration in Vientiane were tried and sentenced to 20 years' imprisonment for anti-government activities. During the year, at the urging of the international community, the Prosecutor General's Office reviewed these sentences and reduced them to 10 years (for 3 of the 5) and 5 years (for 2 of the 5). However, the five remained incarcerated in Vientiane at year's end.

Other political prisoners may have been arrested, tried, and convicted under laws relating to national security that prevent public court trials; however, the Govern-

ment was silent on the matter, and there was no reliable independent method to ascertain accurately their total number.

f. Arbitrary Interference With Privacy, Family, Home or Correspondence.—The Government limits citizens' privacy rights, and the Government's surveillance network is vast. Security laws allow the Government to monitor individuals' private communications (including e-mail and cell phones) and movements. However, some personal freedoms accorded to citizens have expanded along with the liberalization of the economy.

The Constitution prohibits unlawful searches and seizures; however, police at times disregarded constitutional requirements to safeguard citizens' privacy, especially in rural areas. By law, police may not authorize their own searches; they must have approval from a prosecutor or court; however, in practice, police did not always obtain prior approval. The Penal Code generally protects privacy, including that of mail, telephone, and electronic correspondence; however, the Government often violated these legal protections.

MOPS monitored citizens' activities; in addition, an informal militia in both urban and rural areas, operating under the aegis of the military, had responsibility for maintaining public order and reporting "undesirable elements" to the police. The militia usually was more concerned with petty crime and instances of moral turpitude than with political activism, although in remote rural areas where the insurgency was active the militia also played a role in providing security against insurgents and robbers. A sporadically active system of neighborhood and workplace committees under the control of popular front organizations played a similar monitoring role.

Although the Government permitted the public sale of leading foreign magazines and newspapers, restrictions on publications mailed from overseas were enforced, albeit loosely (see Section 2.a.). The Government allowed citizens to marry foreigners but only with prior approval. Although the Government routinely granted permission, the process was lengthy and burdensome. Marriages to foreigners without government approval could be annulled, with both parties subject to arrest or fines.

During the year, the Government accelerated efforts to relocate highland slash-and-burn farmers, most of whom belong to ethnic minority groups, to lowland areas, in keeping with the Government's plan to end opium production by 2005 and slash-and-burn agriculture by 2010. District and provincial officials used persuasion and, in some cases, verbal orders to encourage villages to relocate, especially in the northern provinces. Although the Government's resettlement plan called for compensating farmers for lost land and resettlement assistance in their new homes, in many cases, this assistance was not available or was insufficient to give relocated farmers the means to adjust to their new homes and new way of life. Moreover, in some areas, farmland allocated to relocated villagers was of poor quality and unsuited for intensive rice farming. The result was that in some districts relocated villagers experienced increased poverty, hunger, malnourishment, susceptibility to disease, and increased mortality.

In at least one instance, ethnic Brou villagers in a remote area of Savannakhet Province were expelled from their village because of their Christian faith. Other Christians in several villages in Attapeu, Vientiane, and Bolikhamsai provinces were likewise threatened with expulsion for their religious convictions; however, these expulsion orders were not carried out. In at least one case, senior officials of the Lao Front for National Construction intervened to prevent district officials from expelling Christian families from their village (see Section 2.c.).

There were six Internet service providers. The Prime Minister's Office has stated that it intended to monitor and control more actively Internet communications by the country's nearly 4,000 subscribers; however, most Internet sites, including those critical of the Government, were accessible to users. More than 40 Internet cafes in Vientiane and other larger towns catered primarily to foreigners but were also accessible to citizens.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press; however, the Government severely restricted political speech and writing in practice. The Government also prohibited most criticism that it deemed harmful to its reputation. The Penal Code forbids slandering the State, distorting party or state policies, inciting disorder, or propagating information or opinions that weaken the State. Citizens who lodged legitimate complaints with government departments generally did not suffer reprisals, but criticism of a more general nature, or targeting the leadership, could lead to censure or arrest.

All domestic print and electronic media are state-owned and controlled. Local news in all media reflected government policy. Television talk shows and opinion

articles referred only to differences in administrative approach. Although domestic television and radio broadcasts were closely controlled, the Government made no effort to interfere with television and radio broadcasts from abroad. In practice, many citizens routinely watched Thai television or listened to Thai radio, including news broadcasts. Citizens had 24-hour access to Cable News Network and the British Broadcasting Corporation, among other international stations accessible via satellite television. The Government required registration of receiving satellite dishes and a one-time licensing fee for their use, largely as a revenue-generating scheme, but otherwise made no effort to restrict their use. In addition, a Chinese-owned company provided cable television service to subscribers in Vientiane. This government-registered cable service offered Thai and international news and entertainment programs without restriction from authorities. A few Asian and Western newspapers and magazines were available through private outlets that had government permission to sell them.

Foreign journalists must apply for special visas. Although such visas normally were granted, persons traveling on journalist visas were restricted in their activities. The authorities did not allow journalists free access to information sources, but some journalists were allowed to travel without official escort. In addition, they must pay a daily fee for the services of their escort. Two journalists arrested in June for having been in the company of insurgents who were responsible for the death of a local militia soldier traveled on tourist, rather than journalist, visas (see Section 1.c.).

The authorities also prohibited the dissemination of materials deemed to be indecent, to undermine the national culture, or to be politically sensitive. Any person found guilty of importing a publication deemed offensive to the “national culture” faced a fine or imprisonment for up to 1 year. The Prime Minister’s Decree on the Administration and Protection of Religious Practice (Decree 92), promulgated in 2002, permits the publication of religious material with permission from the Lao Front for National Construction. In practice, although several religious groups have sought such permission, no Christian or Baha’i groups received authorization to publish religious material by year’s end (see Section 2.c.).

Films and music recordings produced in government studios must be submitted for official censorship; however, in practice, most foreign films and music were easily available in video and compact disc format. During the year, the authorities in Vientiane launched a crackdown on entertainment clubs in an effort to prevent minors from frequenting those establishments. The Ministry of Information and Culture imposed new restrictions aimed at limiting foreign influence in music and entertainment; however, these restrictions were only loosely enforced.

The Government controlled all domestic Internet servers and occasionally blocked access to those Internet sites that were deemed pornographic or were critical of government institutions and policies. The Government also sporadically monitored e-mail. Highly restrictive regulations regarding Internet use by citizens significantly curtail freedom of expression. “Disturbing the peace and happiness of the community” and “reporting misleading news” are criminal acts. In addition, the Prime Minister’s Office consolidated government control over Internet service (see Section 1.f.). However, the Government in the past has been limited in its ability to enforce such regulations.

The Constitution provides for academic freedom; however, the Government restricted it, although over the past several years it has relaxed its restrictions in certain areas. Both citizen and noncitizen academic professionals conducting research in the country may be subject to restrictions on travel and access to information and Penal Code restrictions on publication. As the sole employer of virtually all academic professionals, the Government exercised some control over their ability to travel for research or to obtain study grants; however, the Government, which once limited foreign travel by professors, actively sought such opportunities worldwide and approved virtually all such proposals.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly; however, the Government restricted this right in practice. The Penal Code prohibits participation in an organization for the purpose of demonstrations, protest marches, or other acts that cause “turmoil or social instability.” Such acts are punishable by a prison term of from 1 to 5 years. If defendants were tried for crimes against the State, they could face sentences of up to 20 years or possible execution.

The Constitution provides citizens with the right to organize and join associations; however, the Government restricted this right in practice. The Government registered and controlled all associations and prohibited associations that criticized the Government. Political groups other than popular front organizations approved by the LPRP were forbidden. Although the Government restricted many types of formal

professional and social associations, in practice, informal nonpolitical groups met without hindrance. The Foundation for Promoting Education, a private voluntary organization in Vientiane Municipality, operates independently under its own charter; however, it reports to the Ministry of Education. The Buddhist Promotion Foundation is a semiprivate group founded in 1998 by the Lao Buddhist Fellowship Association, which reports to the LPRP Lao Front for National Construction.

c. Freedom of Religion.—The Constitution provides for freedom of religion; however, the authorities, particularly at the local level, interfered with this right in practice.

Although the state is secular in both name and practice, the Party and the Government paid close attention to Theravada Buddhism, which was followed by more than 40 percent of the population and was the faith of nearly all of the country's ethnic Lao population. The Constitution does not recognize a national religion, but the Government's support for and oversight of temples and other facilities and its promotion of Buddhist practices, gave Buddhism an elevated status among the country's religions.

The Constitution prohibits "all acts of creating division of religion or creating division among the people." The LPRP and Government apparently interpreted this section as inhibiting religious practice by all persons, including the Buddhist majority and a large population of animists. Although official pronouncements acknowledged the positive benefits of religion, they also emphasized its potential to divide, distract, or destabilize. The Constitution notes that the State "mobilizes and encourages" Buddhist monks, novices, and priests of other religions to participate in activities "beneficial to the nation and the people."

In 2002, the Prime Minister's Office issued a Decree on the Administration and Protection of Religious Practice. The decree, which has the effect of law, is designed to specify clearly the range of activities permitted religious groups or practitioners. The decree permits minority religious groups to engage in a number of activities that have previously been considered by most authorities to be illegal, such as proselytizing and printing religious material; however, it requires religious groups or individuals to obtain permission in advance for these activities, in most cases from the Lao Front for National Construction, the party-controlled organization that oversees religious issues on behalf of the Government. Although the intent of the decree is to clarify the rights and responsibilities of religious groups, many minority religious leaders complained that the decree was too restrictive in practice. The requirement that religious groups obtain permission, sometimes from several different offices, for a broad range of activities greatly limited the freedom of these groups.

During the year, government authorities arrested and detained approximately 50 Christians, at times holding them in custody for months. In several cases, the prisoners were handcuffed, detained in leg chains and stocks, and subjected to psychological pressure.

During the year, there were reports of authorities closing churches. Local officials in Savannakhet Province closed two churches and seized property belonging to a local Christian congregation. However, in October, these same officials returned one church and parsonage that had been seized previously. In some areas of the country, officials continued to refuse requests to reopen already-closed churches, or to construct new church buildings. There were reports that authorities in some areas used intimidation or threats of expulsion to force Christians to renounce their religious faith, particularly in Saisomboun Special Zone and in Savannakhet, Attapeu, Bolikhamsai, and Luang Prabang provinces.

There are two semi-religious government-recognized holidays—Boun That Luang and the end of Buddhist Lent—that are also major political and cultural celebrations. The Government recognizes the popularity and cultural significance of Buddhist festivals, and most senior officials openly attended them. Buddhist clergy were featured prominently at important state and party functions, and the Government's dedication early in the year of a monument to a founding King of Laos was as much a religious as a secular event.

The Lao Front for National Construction directs the Lao Buddhist Fellowship Association. Since 1996, monks studying at the National Pedagogy School were no longer required to study Marxism-Leninism as part of their curriculum, and the integration of Communist ideology in Buddhist instruction has waned greatly in recent years. Some temples have been permitted to receive support from Theravada Buddhist temples abroad, to expand the training of monks, and to focus more on traditional teachings. In addition, many monks traveled abroad, particularly to Thailand, for formal religious training.

The authorities continued to be suspicious of non-Buddhist religious communities, including some Christian groups, in part because these faiths did not share Theravada Buddhism's high degree of direction and incorporation into the govern-

ment structure. Some authorities criticized Christianity in particular as a Western or imperialist "import." Local authorities, apparently with encouragement from some officials in the central Government or Communist Party, singled out Protestant groups as a target of persecution. Protestant churches' rapid growth over the last decade, contact with religious groups abroad, aggressive proselytizing on the part of some members, and independence of central government control all have contributed to Government and Communist Party suspicion of the churches' activities. The Government strictly prohibited foreigners from proselytizing, although it permitted foreign nongovernmental organizations with religious affiliations to work in the country. Foreign persons found distributing religious material may be arrested or deported, although no such incidents were known to have occurred during the year. Although Decree 92 on Religious Practice, promulgated in 2002, permits proselytizing by religious practitioners as long as they obtain permission for such activities from the Lao Front for National Construction, the Front has not yet granted such permission, and persons found evangelizing risked harassment or arrest.

The Government's tolerance of religion varied by region. The Lao Front for National Construction often sought to intervene with local governments in cases where minority religious practitioners, particularly Christians, had been harassed or mistreated; however, incidents of religious intolerance by local officials continued in some areas. Although there was almost complete freedom to worship in a few areas, particularly in the largest cities, government authorities in many regions allowed properly registered religious groups to practice their faith only under restrictive conditions. Officials in some areas of Savannakhet, Attapeu, and Luang Prabang provinces continued to arrest and detain some religious believers without charges (see Section 1.d.). Unlike in previous years, there were no reports during the year that local officials in isolated areas monitored and arrested persons who converted to Christianity. Followers of the Baha'i faith were able to practice their religion without hindrance in Vientiane city, but in Savannakhet Province, the small Baha'i community continued to face restrictions from local authorities on their gatherings for worship. The small community of Muslims in Vientiane, made up almost exclusively of foreign nationals, was able to practice their religion without hindrance.

Although in most parts of the country members of long-established congregations had few problems in practicing their faith, some churches established a century ago continued to be subjected to harassment and closure by local government officials in Savannakhet. The authorities sometimes advised new congregations to join other religious groups with similar historical roots, despite clear differences between the groups' beliefs. While Decree 92 establishes procedures for new denominations to register with the Lao Front for National Construction, during the year, the Front did not authorize any new denominations to practice in the country, although several applied. These denominations continued to conduct worship services; however, their members risked arrest for their unauthorized activities.

The Roman Catholic Church was unable to operate effectively in the highlands and much of the north, and the Catholic Church in the northern part of the country was largely moribund. The small Catholic communities in Luang Prabang, Sayaboury, and Bokeo provinces sporadically held services in members' homes, but there were no priests resident in the area and pastoral visits from Vientiane were infrequent. However, the church had an established presence in five of the most populous central and southern provinces, where Catholics were able to worship openly. There were three official bishops, one each in Vientiane, Thakhek, and Pakse, as well as a fourth bishop for Luang Prabang who resided in Vientiane and traveled infrequently to his bishopric.

Between 250 and 300 Protestant congregations conducted services throughout the country. The Lao Front for National Construction has recognized two Protestant groups: The Lao Evangelical Church (the umbrella Protestant church) and the Seventh-Day Adventist Church. Nominally all Protestant congregations in the country belong to one of these two organizations, although in practice some congregations operated independently. Both the Lao Evangelical Church and the Seventh Day Adventist Church own properties in Vientiane and other cities.

The Government generally permitted major religious festivals of established congregations without hindrance; however, in some areas, local officials restricted the celebration of major Christian holidays by some congregations. Several Protestant congregations in remote areas of Vientiane, Luang Prabang, Savannakhet, and Sayaboury Provinces were required to join with other congregations, often some distance away, in Easter celebrations. Villagers in several districts of Savannakhet Province, arrested in December 2002 for holding Christmas worship service outside their closed churches, were released early in the year. In December, authorities in Savannakhet Province arrested nine Christians who were attending pre-Christmas services, releasing them several days later. Just after Christmas, authorities in

Attapeu arrested 11 Christians who were attending home prayer services, after having denied the Christians permission to hold public Christmas services.

Animists generally experienced no interference from the Government in their religious practices, which varied extensively among the approximately 70 identified ethnic groups and tribes in the country; however, the Government actively discouraged animist practices that it regarded as outdated, unhealthful, or illegal, such as the practice in some tribes of infanticide of infants born with birth defects or of keeping the bodies of deceased relatives in homes.

Until recently, the Government did not permit the printing of non-Buddhist religious texts or their distribution outside a congregation and restricted the import of foreign religious texts and artifacts. Decree 92 on Religious Practice permits the printing of religious material, providing permission is obtained from the Lao Front for National Construction. The Government required and usually granted its permission for formal links with coreligionists in other countries; however, in practice, the distinction between formal and informal links was unclear, and relations with coreligionists generally were established without much difficulty (see Section 2.a).

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

d. Freedom of Movement within the Country, Foreign Travel, Migration, and Repatriation.—The Constitution provides for these rights; however, the Government restricted some of them in practice. Citizens who traveled across provincial borders no longer were required to report to authorities upon their departure and arrival; however, in designated security zones, roadblocks and identity card checks of travelers were conducted occasionally. Citizens who sought to travel abroad were required to apply for an exit visa. The Government usually granted such visas; however, officials at the local level have denied permission to apply for passports and exit visas to some persons seeking to emigrate. Access by foreigners to certain areas, such as the Saysomboune Special Zone, an administrative area operated by the military forces, was restricted for safety and security reasons.

During the year, there were at least 5 separate insurgent ambushes on passenger vehicles, resulting in the deaths of at least 36 civilians (see Section 1.a.).

Between 1980 and 1999, more than 29,000 citizens who sought refugee status in Thailand, China, and other countries returned to Laos for permanent resettlement under monitoring by the U.N. High Commissioner for Refugees (UNHCR). Other persons who had fled the country after 1975 have returned from abroad to resettle voluntarily, outside the oversight of the UNHCR. In general, returnees have been subject to greater scrutiny by the authorities than other citizens. Nevertheless, many who fled after the change of government in 1975 have visited relatives, some have stayed and gained foreign resident status, and some have reclaimed citizenship successfully. Some refugee returnees carry government-issued identification cards with distinctive markings, ostensibly for use by authorities. Such cards tend to reinforce a pattern of societal discrimination against the returnees. A small group tried in absentia in 1975 for antigovernment activities does not have the right of return (see Section 1.d.).

The Constitution provides for asylum and the protection of stateless persons under the law; however, in practice, the Government did not provide protection against refoulement and did not routinely grant refugee or asylum status.

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

Citizens do not have the right to change their government. Although the 1991 Constitution, amended in 2003, outlines a system composed of executive, legislative, and judicial branches, in practice, the LPRP continued to control governance and the choice of leaders at all levels through its constitutionally designated “leading role.” The Constitution provides for a representative National Assembly, elected every 5 years in open, multiple-candidate, fairly tabulated elections, with voting by secret ballot and universal adult suffrage; however, it legitimizes only a single party, the LPRP. Election committees, appointed by the National Assembly, must approve all candidates for local and national elections. Candidates need not be LPRP members, but in practice, almost all were.

The National Assembly chooses a standing committee generally based on the previous standing committee’s recommendation. Upon the committee’s recommendation, the National Assembly elects or removes the President and Vice President. The standing committee also has supervision of administrative and judicial organizations and the sole power to recommend presidential decrees. It also appoints the National Election Committee, which has powers over elections (including approval of candidates). Activities of the standing committee were not fully transparent.

The National Assembly, upon the President's recommendation, elects the Prime Minister and other Ministers of the Government. The 109-member National Assembly, elected in February 2002 under a system of universal suffrage, approved the LPRP's selection of the President at its inaugural session in April 2002, and, in the same session, it ratified the President's selection of a new Prime Minister and cabinet. The National Assembly may consider and amend draft legislation, but only permanent subcommittees of the Assembly may propose new laws. The Constitution gives the right to submit draft legislation to the National Assembly standing committee and the ruling executive structure.

Women increased their representation in the National Assembly in the 2002 elections from 20 to 22 members in the 109-member body. Three members of the 53-member LPRP Central Committee were women, one of whom was also a member of the 7-member standing committee in the National Assembly. There were no women in the Politburo or the Council of Ministers.

The proportions of ethnic minority members in the 109-member National Assembly—9 Lao Soung (highland dwelling tribes) and 19 Lao Theung (mid-slope dwelling tribes)—were slightly less than in the previous national assembly; most members of the Assembly were ethnic Lao, who also dominated the upper echelons of the Party and the Government. Three cabinet ministers were members of ethnic minority groups.

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

There are no domestic nongovernmental human rights organizations, and the Government does not have a formal procedure for registration. Any organization wishing to investigate and publicly criticize the Government's human rights policies would face serious obstacles if it were permitted to operate at all.

The Government in general does not respond in writing to requests for information on the human rights situation from international human rights organizations; however, the Government has instituted a human rights dialogue with the Swedish Government and has accepted training in U.N. human rights conventions from several international donors. In February, it also answered a specific query from Amnesty International regarding the fate of six imprisoned citizens allegedly convicted of demonstrating against the Government and explained that the individuals had been convicted of espionage but recently had had their sentences reduced.

The Government maintains contacts with the ICRC; government officials received ICRC training on human rights law in 1998 and again during the year, and the Government continued to translate international human rights and humanitarian law conventions with ICRC support. The Government permitted U.N. human rights observers to monitor the treatment of almost 30,000 returned refugees in all parts of the country with minimal interference (see Section 2.d.). The UNHCR's office in the country closed at the end of 2001, with the Commissioner's determination that the office's monitoring role had been completed and former refugees had been successfully reintegrated; however, since the closing of the UNHCR office the Government has not permitted UNHCR monitors based in Thailand to conduct monitoring visits to the country.

A human rights unit in the Ministry of Foreign Affairs' Department of International Treaties and Legal Affairs has responsibility for inquiry into allegations of human rights violations. This unit rarely responded to inquiries regarding individual cases.

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

The Constitution provides for equal treatment under the law for all citizens without regard to sex, social status, education, faith, or ethnicity. The Government at times took action when well-documented and obvious cases of discrimination came to the attention of high-level officials, although the legal mechanism whereby a citizen may bring charges of discrimination against an individual or organization was neither well developed nor widely understood among the general population. There was no official discrimination against those with HIV/AIDS, but social discrimination existed. The Government conducted awareness campaigns during the year to educate the population and promote understanding toward those with HIV/AIDS.

Women.—There were reports that domestic violence against women occurred, although it did not appear to be widespread. Spousal abuse is illegal. Rape reportedly was rare. In cases of rape that were tried in court, defendants generally were convicted with penalties ranging from 3 years' imprisonment to execution. Spousal rape is not illegal.

Trafficking in women and girls for prostitution was a problem (see Section 6.f.). Prostitution is illegal with penalties ranging from 3 months to 1 year in prison.

Sexual harassment was rare. Although sexual harassment is not illegal, “indecent sexual behavior” toward another person is illegal and punishable by 6 months’ to 3 years’ imprisonment.

The Constitution provides for equal rights for women, and the Lao Women’s Union operated nationally to promote the position of women in society. The Family Code prohibits legal discrimination in marriage and inheritance. Discrimination against women was not generalized; however, varying degrees of traditional, culturally based discrimination persisted, with greater discrimination practiced by some hill tribes. Many women occupied responsible positions in the civil service and private business, and in urban areas their incomes were often higher than those of men.

In recent years, the Government increased support for development programs designed to improve the position of women in society, including in the political system.

Children.—The level of budgetary support for education was very low. Education is free and compulsory through the fifth grade; however, fees for books, uniforms, and equipment, among other factors, precluded children from rural areas and poor urban families from complying with this requirement. According to government statistics, 80 percent of primary school-age children, 50 percent of junior high school-age children, and 25 percent of high school-age children were enrolled in school; the U.N. Development Program estimated that almost 40 percent of children never attended school at all and only 10 percent entered secondary school. There was significant difference in the treatment of boys and girls in the educational system: Female literacy was 48 percent versus 70 percent for males; however, men and women attended the national university in approximately equal numbers. Although the Government has made children’s education and health care a priority in its economic planning, funding for children’s basic health and educational needs was inadequate, and the country had a very high rate of infant and child mortality.

Violence against children is prohibited by law, and violators were subject to stiff punishments. Reports of the physical abuse of children were rare. Trafficking in girls for prostitution and forced labor was a problem (see Section 6.f.). Other forms of child labor generally were confined to family farms and enterprises (see Section 6.d.).

Persons with Disabilities.—With donor assistance, the Government implemented limited programs for persons with disabilities, especially amputees. The law does not mandate accessibility to buildings or government services for persons with disabilities, but the Labor and Social Welfare Ministry has established some regulations regarding building access and some sidewalk ramps in Vientiane. The Lao National Commission for the Disabled has promulgated regulations to protect the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—The Constitution provides for equal rights for all minority citizens, and there is no legal discrimination against them; however, societal discrimination persisted. Moreover, critics have charged that the Government’s resettlement program for ending slash-and-burn agriculture and opium production has adversely affected many ethnic minority groups, particularly in the north. The program requires that resettled persons adopt paddy rice farming and live in large communities, ignoring their traditional livelihoods and community structures. The program has led to an active debate among international observers about whether the benefits of resettlement promoted by the Government—providing access to markets, schools, and medical care for resettles—outweigh the negative impacts on traditional cultural practices.

Less than half the population is ethnic Lao, also called “lowland Lao.” Most of the remainder, probably around 60 percent, is a mixture of diverse upland hill tribes whose members, if born in the country, are citizens. There were also ethnic Vietnamese and Chinese minorities and a small community of South Asian origin, particularly in the towns. The Law on Nationality provides a means for foreigners to acquire citizenship, and each year some foreigners, mostly Vietnamese and Chinese, acquire Lao citizenship. The Government encouraged the preservation of minority cultures and traditions; however, due to their remote location and inaccessibility, minority tribes had little voice in government decisions affecting their lands and the allocation of natural resources.

The Hmong are one of the largest and most prominent highland minority groups. There were a number of Hmong officials in the senior ranks of the Government and LPRP, including at least five members of the LPRP Central Committee. However, societal discrimination against the Hmong continued, and some Hmong believe their ethnic group cannot coexist on an equal basis with the ethnic Lao population. This belief has fanned separatist or irredentist beliefs among some Hmong. In recent years, the Government focused some limited assistance projects in Hmong areas in

order to address regional and ethnic disparities in income. The Government also provided for Hmong and Khmu language radio broadcasts.

The increased number of attacks by Hmong insurgents against civilian and military targets, coupled with the outbreak of a localized uprising in Houaphanh Province in August, heightened ethnic tensions and aroused the government leadership's suspicion of Hmong irredentist desires. These heightened security problems also resulted in increased efforts by security forces to eliminate scattered pockets of insurgents living in remote jungle areas. One group in Saisomboun Special Zone numbering 700 ethnic Hmong, mostly women and children, was highlighted in several international press articles, which alleged that the group was being systematically hunted down and attacked by government air and ground forces and that it was at the point of starvation. During the year, the U.N. Committee to Eliminate Racial Discrimination strongly criticized the Government for its treatment of these insurgent Hmong remnants.

At least partially in response to charges that it was trying to kill all insurgent elements, the Government publicized its amnesty program, which promised amnesty to all insurgents and family members who came out of the forest and turned in their weapons. Small groups took up this offer and received small amounts of resettlement assistance from the Government, especially in Vientiane, Bolikhamsai, and Xieng Khouang provinces and in the Saisomboun Special Zone. In some areas, such as in Bolikhamsai, this amnesty program included job training, land, and equipment for farming. However, in some cases, this assistance was less than had been promised to the insurgents on their surrender. Moreover, because of their past activities, amnestied insurgents continue to be the focus of government suspicion and scrutiny (see Sections 1.a. and 1.c.).

During the past 2 years, international observers who monitored the status of ethnic minorities, especially Hmong, who repatriated under UNHCR auspices in the late 1990s, reported no significant human rights violations.

The Constitution states that foreigners and stateless persons are protected by "provisions of the laws," but in practice, they did not enjoy the rights provided for by the Constitution.

Section 6. Worker Rights

a. The Right of Association.—Under the law, labor unions may be formed in private enterprises as long as they operate within the framework of the officially sanctioned Federation of Lao Trade Unions (FLTU), which in turn is controlled by the LPRP. Most of the FLTU's approximately 77,000 members worked in the public sector.

The State employed the majority of salaried workers, although this situation was changing as the Government privatized state enterprises and otherwise reduced the number of its employees. Subsistence farmers made up an estimated 85 percent of the work force.

The 2001 Report of the International Labor Organization (ILO) Committee of Experts cited the Government for its failure to submit reports on ratified conventions required of member states. Furthermore, the Government has not replied to comments by the Committee from 8 years ago.

The FLTU was free to engage in contacts with foreign labor organizations, which during the year included contacts with the Association of Southeast Asian Nations Trade Unions and the Asia-Pacific American Labor Alliance. The FLTU was a member of the World Federation of Trade Unions.

b. The Right to Organize and Bargain Collectively.—There is no right to organize and bargain collectively. The Labor Code stipulates that disputes be resolved through workplace committees composed of employers, representatives of the local labor union, and representatives of the FLTU, with final authority residing in the Ministry of Labor and Social Welfare. Labor disputes reportedly were infrequent. The Government sets wages and salaries for government employees, while management sets wages and salaries for private business employees.

Strikes are not prohibited by law, but the Government's ban on subversive activities or destabilizing demonstrations (see Section 2.b.) made a strike unlikely, and none were reported during the year.

The Labor Code stipulates that employers may not fire employees for conducting trade union activities, for lodging complaints against employers about labor law implementation, or for cooperating with officials on labor law implementation and labor disputes, and there were no reports of such cases during the year. Workplace committees were one mechanism used for resolving complaints; however, there was no information on how effective these committees were in practice.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Labor Code prohibits forced labor except in time of war or national disaster, during which time the State may conscript laborers. The Code also prohibits forced or bonded labor by children; however, there were reports that such practices occurred (see Section.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—Under the Labor Code, children under age 15 may not be recruited for employment, except to work for their families, provided that such children are not engaged in dangerous or difficult work. Many children helped their families on farms or in shops, but child labor was rare in industrial enterprises. Some garment factories reportedly employed a very small number of underage girls. The Ministries of Public Security and Justice are responsible for enforcing these provisions. Enforcement was ineffective due to a lack of inspectors and other resources.

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

e. Acceptable Conditions of Work.—The Labor Code provides for a workweek limited to 48 hours (36 hours for employment in dangerous activities). The Code also provides for at least 1 day of rest per week. The daily minimum wage was about \$0.40 (4,000 kip), which was insufficient to provide a decent standard of living for a worker and family. Most civil servants received inadequate pay. Some piecework employees, especially on construction sites, earned less than the minimum wage.

The Labor Code provides for safe working conditions and higher compensation for dangerous work. Employers are responsible for all expenses for a worker injured or killed on the job, a requirement generally fulfilled by employers in the formal economic sector. The Labor Code also mandates extensive employer responsibility for those disabled while at work. During the year, this law was enforced adequately. Although workplace inspections reportedly have increased over the past several years, the Ministry of Labor and Social Welfare lacked the personnel and budgetary resources to enforce the Labor Code effectively. The Labor Code has no specific provision allowing workers to remove themselves from a dangerous situation without jeopardizing their employment.

There were a number of illegal immigrants in the country, particularly from Vietnam and China, and they were vulnerable to exploitation by employers. Some illegal immigrant Vietnamese children worked selling goods on the streets of Vientiane.

f. Trafficking in Persons.—The Penal Code prohibits abduction and trade in persons as well as the constraint, procuring, and prostitution; however, trafficking in persons, particularly women and children, was a problem. Laos was primarily a country of origin for trafficking in persons and to a lesser extent, a country of transit. There was almost no effective border control. There was little reliable data available on the scope and severity of the problem until recently, when studies indicated that the scale of economic migration out of the country, mostly young people between the ages of 15 and 30, was far greater than had previously been supposed. About 7 percent of the total sample population in three southern provinces migrated, either seasonally or permanently. Approximately 45 percent of them were male and 55 percent female, and an unknown number of these persons were actually trafficked in some sense of the term. A small number of citizens were trafficked to China and other third countries, including the United States. In recent years, highland minority women from the remote interior of the country have become the group most vulnerable to traffickers. These groups do not have the cultural familiarity or linguistic proximity to Thai that Lao-speaking workers can use to protect themselves from exploitative situations. A much smaller number of trafficked foreign nationals transited through Laos, especially Burmese and Vietnamese.

Many labor recruiters in the country were local people with cross-border experience and were known to the trafficked persons. For the most part, they had no connection to organized crime, commercial sexual exploitation, or the practice of involuntary servitude, but their services ended once their charges reached Thailand, where more organized trafficking operations also operated.

There were few reports of official involvement in trafficking; however, anecdotal evidence suggested that local officials knew of trafficking activities, and some may have profited from them.

In the past, the Government has prosecuted some persons for involvement in trafficking activities. During the year, a female trafficker was tried, convicted, and sentenced to 2 years imprisonment in one southern province. The police occasionally arrested both citizens and foreigners for having sexual relations outside of marriage, which is prohibited under the law. The Government previously denied that there were cases of child prostitution in the country; however, in recent years it has become more actively involved in countering the worst forms of trafficking and the ex-

plotation of underage persons, chiefly through cooperation with international NGOs working on trafficking problems.

The Ministry of Labor and Social Welfare (MLSW) has a unit devoted to children with special needs, including protection and prevention of trafficking. The Ministry also maintains a small-scale repatriation assistance center for returned victims of trafficking. However, the unit's effectiveness was limited by a small budget, inadequate international assistance, and a lack of trained personnel. The MLSW and the Lao Women's Union have conducted pilot studies on anti-trafficking information campaigns and are now pursuing more active interventions in conjunction with NGOs. Financial constraints limited the contributions the Government could make, but it did offer the services of ministerial personnel and venues to NGOs doing anti-trafficking work.

The Lao Women's Union and the Youth Union, both party-sanctioned organizations, offered educational programs designed to educate girls and young women regarding the schemes of recruiters for brothels and sweatshops in neighboring countries and elsewhere. These organizations were most effective in disseminating information at the grassroots level.

Some victims have been punished for improper documentation or for crossing the border illegally. Despite a new Memorandum of Understanding with Thailand regarding border control and a decree allowing citizens to work abroad, this practice continued, especially in the provinces. The victims have no recourse to relief. Some local authorities have ordered trafficking victims into reeducation seminars and subjected them to substantial fines. The National Commission for Mothers and Children continued an active program of support for victims with support from UNICEF.

MALAYSIA

Malaysia is a federation of 13 states and 3 federal territories with a parliamentary system of government based on periodic multiparty elections. Opposition parties actively contest elections but face significant obstacles in competing with the ruling National Front coalition, which has held power for more than 45 years. In the November 1999 elections, opposition parties won approximately 25 percent of the seats in the Parliament, and an opposition party also retained control of one state government and gained control of another. The Constitution provides for an independent judiciary; however, government action, constitutional amendments, legislation, and other factors undermined judicial independence and strengthened executive influence over the judiciary.

The Royal Malaysian Police have primary responsibility for internal security matters. The police report to and are under the control of the Home Minister. Members of the police committed human rights abuses.

The country has a free market economy and a population of approximately 25 million. The economy grew 0.4 percent in 2001 but expanded in 2002 to 4.1 percent growth. Analysts expected the economy to grow from 4.2 percent to 4.8 percent in 2003. During the year, the Government continued its expansionary fiscal and monetary policies and took an active role in managing the export-oriented economy. Services and manufacturing accounted for 57 percent and 30.4 percent, respectively, of the gross domestic product. The unemployment rate was approximately 3.5 percent.

The Government generally respected the human rights of its citizens; however, serious problems remained. The Government acknowledged that it restricted certain political and civil rights in order to maintain social harmony and political stability. Police killed a number of persons in the course of apprehending them, and there were deaths in custody as well. Other problems included police abuse of detainees, use of the Internal Security Act and other statutes to arrest and detain persons without charge or trial, persistent questions about the impartiality and independence of the judiciary, and restrictions on the freedom of the press, freedom of association, and freedom of assembly. There continued to be some restrictions on religious freedom and workers rights and instances of discrimination and exploitation of indigenous groups. Longstanding policies gave preferences to ethnic Malays in many areas. The country was a source and destination for trafficking in women and girls for the purposes of prostitution.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings; however, the press reported that police killed 27 persons while appre-

hending them. The criminal procedure code empowers magistrates and public prosecutors to investigate deaths and charge those responsible under the penal code. However, no such prosecutions were brought forward during the year.

The press reported that 11 persons died in police custody during the year. The law requires that a magistrate investigate all such deaths; an inquiry was begun in two of these cases. In July, the Government-sponsored Human Rights Commission of Malaysia (Suhakam) stated that it was aware of "numerous" complaints of deaths in police custody, police brutality, and negligence. In August, a 28-year-old man died in police custody in Kuala Lumpur. When the autopsy attributed the death to a perforated ulcer, the man's family disputed the finding, claiming his body was heavily bruised, and sought a second, independent autopsy. The court rejected the application on the basis that the relatives had insufficient personal interest in the victim. The family of the victim filed an appeal against the court's decision, which was still pending at year's end.

In August 2002, the High Court overturned a May 2001 Coroner's Court ruling that there was no criminal wrongdoing in the 1998 fatal shooting of six men at close range by police officers. The High Court found that the police were responsible for murderous assault, but the court took no action against them by year's end.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—No constitutional provision or law specifically prohibits torture. However, laws that prohibit "committing grievous hurt" encompass torture, and, according to the Government, every report of abuse of prisoners is investigated. There were press reports of alleged torture or mistreatment by the police. Local nongovernmental organizations (NGOs) stated that police sometimes subjected criminal suspects and illegal alien detainees to physical and psychological torture during interrogation and detention. At year's end, there was still no government response to the March 1999 police report filed by opposition activist Abdul Malek bin Hussin in which he accused police of torturing him in 1998 while he was under detention. No further action by the Government was expected (see Section 1.d.).

In June, the Bar Council called for immediate investigation of a "number" of allegations of improper conduct of police and other law enforcement officers. The authorities investigated some of the cases; however, the Government routinely does not release information on the results of investigations, and whether those responsible are punished is not always known. According to the Police Commission report covering 2002, disciplinary actions were initiated against 754 police personnel, and 98 police officers were relieved of their duties that year.

In August, the High Court reversed a Sessions Court's acquittal and convicted a police constable for the 2002 rape of two foreign women who were in custody at the time of the rape (see Section 5).

On several occasions, riot police forcibly dispersed peaceful demonstrators around the country, using truncheons, water cannons, and tear gas. The press reported that the police forcefully dispersed a peaceful May Day celebration (see Section 2.b.).

Logging companies reportedly used police force and intimidation to appropriate land from indigenous Iban and Penan communities in Sarawak (see Section 5).

Criminal law prescribes caning as an additional punishment to imprisonment for those convicted of some nonviolent crimes, such as narcotics possession, criminal breach of trust, and alien smuggling. The immigration law, in effect since 2002, prescribes up to six strokes of the cane for both illegal immigrants and their employers. Judges routinely included caning in sentences of those convicted of such crimes as kidnapping, rape, and robbery. Some state Shari'a (Islamic) laws, which bind only Muslims, also prescribe caning (see Section 1.e.). The caning, which is carried out with a 0.5-inch-thick wooden cane, commonly causes welts and sometimes causes scarring. Males over 50 and women are exempted from caning. According to the provisions of the Child Act passed in December 2002, male children 10 years of age and older may be given up to 10 strokes of a "light cane" (see Section 5).

Prison overcrowding was a serious problem. In January, Suhakam called on the Government to improve conditions for inmates at the Kajang women's prison. Press reports indicated that the prison, which has a maximum capacity of 450, housed 1,450 prisoners. According to the Deputy Home Minister, the country's prison system had a capacity of 24,000 prisoners but actually held 35,000 inmates. Five new prisons, with the capacity to hold 7,900 prisoners, were under construction at year's end and scheduled for completion in 2004. Additionally, in February, the Deputy Home Minister announced that a parole system for prisoners, to be implemented by year's end, would further reduce prison overcrowding.

The law provides that young boys and girls may be placed in judicially approved places of detention. Children have the right to remain with their imprisoned moth-

ers until the age of 3 years and can stay beyond that age with approval of the Director General of Prisons. In May, the press reported that a juvenile was arrested and placed in a detention facility together with adult detainees.

Special security prisoners were detained in a separate detention center (see Section 1.d.). During the year, a number of persons released from detention under the Internal Security Act (ISA) alleged that during the initial stages of their detention they were subject to intensive interrogation and disoriented by isolation, deliberately interrupted sleep, and abusive treatment by police (see Section 1.d.).

The U.N. High Commissioner for Refugees (UNHCR) made credible allegations of inadequate food, inadequate medical care, poor sanitation, and abuse by guards in government camps for illegal immigrants. According to credible reports, this overcrowding and related poor health conditions contributed to the deaths of several detainees. Suhakam, which visited the camps in January, found 2,000 detainees enduring hot, uncomfortable, and cramped living conditions. During the year, thousands of Acehnese asylum seekers were detained in camps for illegal immigrants pending deportation to Indonesia (see Section 2.d.). Some individuals convicted of violating the immigration law were subject to caning. In January, Suhakam confirmed that they found detainees with fresh scars at Semenyih camp and said that it amounted to cruel and inhumane treatment.

The Government does not have any agreement with the International Committee of the Red Cross (ICRC) that permits visits to prisoners. NGOs and the media allegedly were not permitted to monitor prison conditions. Access to illegal alien detention camps was restricted, although UNHCR officials were given access to several camps to identify and interview potential refugees at various times during the year (see Section 2.d.). In addition, Suhakam officials visited various camps and prisons at different times during the year.

d. Arbitrary Arrest, Detention, or Exile.—The law permits police to arrest individuals for some offenses without a warrant. Police may hold suspects for 24 hours without charge. A magistrate may extend the period for up to 2 weeks. In general, police observed these restrictions. However, Suhakam reported in 2002 that some detainees were held beyond the 2-week limit. Suhakam also noted that police sometimes released suspects and then quickly rearrested them on new but similar charges. In one 2002 case, a detainee was consecutively held in this manner for a total of 77 days. Police routinely denied detainees access to legal counsel and questioned suspects without giving them access to counsel. Police justified this practice as necessary to prevent interference in ongoing investigations. Judicial decisions generally upheld this practice.

Modeled on the British system, The Royal Malaysia Police (PDRM) is under the command of the Inspector General of Police (IGP), who reports to the Minister of Home Affairs. The IGP is responsible for organizing and administering the police force. The functions of the police are generally divided into five areas: The enforcement of law and order; the maintenance of national peace and security; the prevention and detection of crimes; the arrest and prosecution of offenders, and the gathering of security intelligence. Consisting of 74,000 officers, the PDRM generally was regarded as well organized and efficient. During the year, there were some allegations of corruption and police abuse of detainees. In December, the Prime Minister (who is concurrently Home Affairs Minister) announced that a Royal Commission would be set up to review such issues within the police force as police brutality, poor service, and corruption. During the year, the PDRM in conjunction with Suhakam organized a number of training courses throughout the country focused on informing police officers about the importance of human rights. In November, the Prime Minister appointed a new IGP with a reputation as a tough disciplinarian.

Three laws permit the Government to detain suspects without judicial review or the filing of formal charges: the ISA, the Emergency (Public Order and Prevention of Crime) Ordinance, and the Dangerous Drugs Act (Special Preventive Measures).

The ISA, enacted in 1960 during an active communist insurgency, empowers the police to hold for up to 60 days any person who acts "in a manner prejudicial to the security of Malaysia." The Home Minister may authorize further detention for periods of up to 2 years. Those released before the end of their detention period are subject to "imposed restricted conditions" for the remainder of their detention periods. These conditions limit their freedom of speech, freedom of association, and freedom to travel outside the country. Since its inception over 4,000 persons have been detained under the ISA.

Even when there are no formal charges, the ISA requires that the authorities inform detainees of the accusations against them and permit them to appeal to an advisory board for review every 6 months. However, advisory board decisions and recommendations are not binding on the Home Minister, are not public, and often are not shown to the detainee. Local human rights NGOs claimed that the police

at times intimidated and harassed family members of ISA detainees to prevent them from taking legal action against the police.

Amendments to the ISA in 1988 circumscribed judicial review of ISA detentions. The Bar Council has in the past asserted that detentions under the ISA should be subject to full judicial review. The courts did not concur with this interpretation, limiting their review to procedural issues. Detainees freed after judicial order nearly always were detained again immediately. Following several successful legal challenges to ISA detentions on procedural grounds, in August, the Federal Court ruled that the courts should not intervene where matters of national security and public order are at stake.

According to the Government, the goal of the ISA is to control internal subversion. In August, the Government stated that there were 99 persons in detention under the ISA of whom 79 were suspected of involvement in terrorism. These included 61 members of Jemaah Islamiyah and 18 members of *Kumpulan Militan Malaysia*. Among those detained were members of the opposition Islamic Party (PAS), including Nik Adli, son of the PAS leader.

There were no new reports of the Government using the ISA against political opponents during the year. However, the ISA, and the threat of invoking the ISA, have in the past been used to intimidate and restrict political dissent. For example, in 2001 the Government used the ISA to detain 10 political activists who were leaders of, or closely associated with, the opposition National Justice Party (*Keadilan*), claiming that they represented a threat to national security. In August 2002, the Federal Court ruled that the detentions were unlawful. However, as the Court's rulings focused on the police's initial 60-day detention order and not on the Home Affairs Ministry's subsequent 2-year detention, the six remained in prison until June, when they were released. Two of those released claimed that their police interrogations were limited to questions about their political beliefs and personal life and not about the alleged offenses for which they initially were detained.

Opposition leaders and human rights organizations continued to call on the Government to repeal the ISA and other legislation that deprived persons of the right to defend themselves in court. In April, after nearly a year of reviewing the case, Suhakam publicly urged the Government to release the six *Keadilan* detainees and recommended that the ISA be rewritten to ensure that the Government could not use it against political opponents. Suhakam also recommended that ISA detainees have access to legal counsel within 24 hours of detention and to families within 48 hours. The Suhakam 2002 annual report noted that detention without trial constituted a violation of human rights.

The Government stated that the move by foreign governments to implement preventive detention measures to combat terrorism underscored the country's continued need for the ISA. However, in September, the Minister of Legal Affairs said that the Government was reviewing the ISA and would incorporate Suhakam's recommendations into its report.

Under the Emergency Ordinance, the Home Minister may issue a detention order for up to 2 years against a person if he deems it necessary to protect public order, or for the "suppression of violence, or the prevention of crimes involving violence." In practice, the Government used the Emergency Ordinance for other reasons.

Provisions of the Dangerous Drugs Act (Special Preventive Measures) give the Government specific power to detain suspected drug traffickers without trial for up to 39 days before the Home Minister must issue a detention order. Once an order is issued, the detainee is entitled to a hearing before a court, which may order the detainee's release. Suspects may be held without charge for successive 2-year intervals with periodic review by an advisory board, whose opinion is binding on the Home Minister. However, the review process contains none of the procedural rights that a defendant would have in a court proceeding. The police frequently detained suspected narcotics traffickers under this act after the traffickers were acquitted of formal charges. During the year, the Government detained over 1,975 persons under the act.

The Restricted Residence Act allows the Home Ministry to place criminal suspects under restricted residence in a remote district away from their homes for 2 years. The Ministry is authorized to issue the banishment orders without any judicial or administrative hearings. Human rights activists questioned the need for this colonial-era law and called for its repeal. The Government continued to justify the act as a necessary tool to remove suspects from the area where undesirable activities were being conducted. The Government did not disclose how many persons were subject to the Restricted Residence Act and no accurate estimate was available.

Immigration laws were used to detain alleged illegal immigrants. The detainees were not accorded any administrative or judicial hearing and were released only after their employers proved their legal status. Those who were able to produce

legal documents normally were released immediately; those who were unable to prove their legal status often were held for extended periods before deportation. Illegal immigrants were kept in detention centers that were separate from prisons. There is no codified legal distinction made between illegal workers, asylum seekers and trafficking victims (see Sections 1.c. and 2.d.).

Crowded and understaffed courts often resulted in lengthy pretrial detention, sometimes lasting several years.

Section 396 of the Criminal Procedure Code allows the detention of a person whose testimony as a material witness is necessary in a criminal case, if that person is considered likely to flee.

The Constitution provides that no citizen may be banished or excluded from the Federation. However, according to the terms of a 1989 peace agreement, Chin Peng, the 80-year-old former leader of the Communist insurgency in the country lives in exile in Thailand and has been denied permission to return to the country.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, over the last 20 years government action, constitutional amendments, legislation restricting judicial review, and other factors limited judicial independence and strengthened executive influence over the judiciary. The secular legal system is based on English common law. Trials are public, although judges may order restrictions on press coverage. Defendants have the right to counsel, bail is sometimes available, and strict rules of evidence apply in court. Defendants may make statements for the record to an investigative agency prior to trial. Limited pretrial discovery in criminal cases impeded defendants' ability to defend themselves.

The Government limited judicial independence significantly in 1988 through a constitutional amendment that provided that judicial powers would be conferred by Parliament rather than being vested directly in the courts. The amendment also conferred certain judicial powers on the Attorney General, including the authority to instruct the courts on which cases to hear, the power to choose venues and the right to discontinue cases. The Attorney General has control and direction of all criminal prosecutions under the Criminal Procedure Code and has assumed responsibility for judicial assignments and transfers. Since 1988, senior judges have been appointed based on the recommendation of the Prime Minister.

In recent years, members of the bar, NGOs and other observers have expressed serious concern about the general decline of judicial independence, citing a number of high-profile instances of arbitrary verdicts, selective prosecution, and preferential treatment of some litigants and lawyers. The most widely criticized such case was that of former Deputy Prime Minister Anwar Ibrahim. In 1998, after a peaceful demonstration in which he called for Prime Minister Mahathir's resignation, Anwar was detained for alleged corruption and sodomy. In 1999, Anwar was convicted of four counts of corruption and sentenced to 6 years in prison. Appeals in 2000 and 2002 were denied. In 2000, Anwar was convicted on a separate charge of sodomy and sentenced to 9 years in prison, to be served consecutively with the corruption sentence. In April, the Court of Appeal upheld this conviction. Anwar appealed the decision to the Federal Court, and the case was pending at year's end.

According to many legal experts, both domestic and international, Anwar Ibrahim is a political prisoner because he was charged, tried, and convicted in a legal process that was politically motivated and patently unfair. Observers alleged manufactured charges of corruption and sodomy, questionable rulings by the presiding judges that facilitated the prosecution and greatly limited Anwar's defense, and an unwillingness by the judiciary to consider reasonable bail requests. In July, three of the judges involved in Anwar's case were promoted to higher positions ahead of judges with more seniority. According to the law, Anwar Ibrahim is classified as a common criminal who does not have the right to receive visits from international human rights organizations.

Defendants enjoy the presumption of innocence and may appeal court decisions to higher courts; however, a 1997 amendment to the Criminal Procedure Code strengthened prosecutors' ability to bring a case to trial by reducing the standard of proof necessary to avoid summary dismissal of the case.

The Courts of Judicature Act limits a defendant's right to appeal in some circumstances. The Government stated that the limits expedited the hearing of cases in the upper courts, but the president of the Bar Association said that the act imposed too many restrictions on appeals.

High Courts have original jurisdiction over all criminal cases involving serious crimes. Minor civil suits are heard by Sessions Courts. Juvenile Courts try offenders below 18 years of age. The Special Court tries cases involving the King and the Sultans. The Court of Appeal has appellate jurisdiction over High Court and Sessions

Court decisions. The Federal Court, the country's highest court, reviews Court of Appeal decisions.

The Essential (Security Cases) Regulations restrict the right to a fair trial by lowering the standard for accepting self-incriminating statements by defendants as evidence in firearm and certain national security cases. The regulations also allow the authorities to hold an accused for an unspecified time before making formal charges.

Even when the Essential Regulations are not invoked, police sometimes used other tactics to limit the legal protections of defendants. For example, during a trial police may summon and interrogate witnesses who have previously given testimony that was not helpful to the prosecution. Human rights advocates accused police of using this tactic to intimidate witnesses. Police also have used raids and document seizures to harass defendants.

Contempt of court charges also restricted the ability of defendants and their attorneys to defend themselves. However, the use of contempt charges against defendants and their attorneys appeared to be decreasing. During the year, a lawyer active in representing the families of persons who died in custody was charged with intentionally insulting a public servant and criminally intimidating a witness during a 2002 inquest hearing. The prosecution subsequently dropped the first charge, and a High Court judge dismissed the second charge. Observers believed the case to be an aberration and did not believe there was a government policy to hinder public defenders.

Certain provisions of the Anti-Corruption Act impinge on the presumption of a defendant's innocence. A 1997 amendment to the act requires that an accused prove that he acquired monetary and other assets legally.

Shari'a laws administered by state authorities through Islamic courts bind Muslims, the large majority of whom are ethnic Malays. These laws vary from state to state. In 2002, the Government established a committee to recommend ways to harmonize Shari'a laws throughout the country, but any recommendations it may make will have to be adopted by individual state legislatures. The Shari'a courts do not give equal weight to the testimony of women. Many NGOs also complained that women did not receive fair treatment from Shari'a courts, especially in matters of divorce and child custody (see Section 2.c.).

Indigenous peoples in Sarawak and Sabah have a system of customary law to resolve matters such as land disputes between tribes. Additionally, Penghulu (village head) courts may adjudicate minor civil matters, but these were rarely used.

The military has a separate system of courts.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The law protects against such practices; however, authorities infringed on citizens' privacy rights in some cases. Provisions in the security legislation allow the police to enter and search without a warrant the homes of persons suspected of threatening national security (see Section 1.d.). Police also may confiscate evidence under these acts. In some cases each year, police use this legal authority to search homes and offices, seize books and papers, monitor conversations, and take persons into custody without a warrant.

The Anti-Corruption Act empowers the Attorney General to authorize the interception of mail and the wiretapping of telephones. Information obtained in this way is admissible as evidence in a corruption trial.

The law permits the Home Ministry to place criminal suspects under restricted residence in a remote district away from their homes for 2 years (see Section 1.d.).

The Government bans membership in unregistered political parties and in unregistered organizations (see Section 2.b.).

Certain religious issues posed significant obstacles to marriage between Muslims and adherents of other religions (see Section 2.c.).

Muslim couples must take premarital courses (see Section 5).

Two state governments sought to restrict Muslim women's dress (see Section 5). In Kelantan, the state government decreed that female performers may appear only before female audiences.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and freedom of the press; however, some important legal limitations exist, and in practice, the Government restricted freedom of expression and intimidated most of the print and electronic media into practicing self-censorship. According to the Government, restrictions on this freedom were imposed to protect national security, public order, and friendly relations with other countries.

The Constitution provides that freedom of speech may be restricted by legislation "in the interest of security (or) public order." For example, the Sedition Act prohibits public comment on issues defined as sensitive, such as racial and religious matters.

In practice the Sedition Act, Official Secrets Act (OSA), criminal defamation laws, and some other laws were used to restrict or to intimidate dissenting political speech.

The Prime Minister and other senior officials continued to ascribe seditious or treasonous motives to critics of government policies, although many persons still criticized the Government publicly. In June 2002, the opposition leader Lim Kit Siang and a number of his colleagues were arrested for distributing leaflets that criticized the Prime Minister's declaration that the country was an Islamic state. Throughout the year, Government officials warned that political parties that raised sensitive issues and threatened national stability would be charged under the Sedition Act. In May, the editor of the opposition paper *Harakah* was fined \$1,300 (5,000 ringgit) for publishing an allegedly seditious article in 1999 regarding the Anwar Ibrahim trial. In 2002, opposition politician Marina Yusoff, charged with sedition for comments she made about the 1969 racial violence while campaigning for Parliament in 1999, was fined \$1,300 (5,000 ringgit).

In the past, the Bar Council and other NGOs called for a review of certain provisions of the OSA, accusing the Government of using the act to cover up corruption. In 2000, Ezam Noor, a former aide to Anwar Ibrahim, was charged under the OSA with disclosing secret Anti-Corruption Agency reports to the media. In August 2002, Ezam was convicted of the charge and sentenced to 2 years in prison, but he was released on bail in June pending appeal.

The English and Malay press provided generally uncritical coverage of government officials and policies and usually gave only limited and selective coverage to political views of the opposition or political rivals. Editorial opinion almost always reflected government positions on domestic and international issues. Print journalism was dominated by eight daily newspapers—two each publishing in English and Malay and four publishing in Chinese. One of the parties in the ruling coalition owned or controlled a majority of shares in each of the English and Malay dailies, and two of the Chinese dailies. Politically well-connected tycoons owned the other two Chinese-language newspapers. During the year, several newspaper vendors were the targets of official raids for selling opposition party or independently owned newspapers. However, self-censorship and biased reporting in the print media were not uniform and the English-, Malay-, and Chinese-language press sometimes provided balanced reporting on sensitive issues.

The Printing Presses and Publications Act (PPPA) limits press freedom. Under the Act, domestic and foreign publications must apply annually to the Government for a permit. The Act was amended to make the publication of "malicious news" a punishable offense, to expand the Government's power to ban or restrict publications, and to prohibit court challenges to suspension or revocation of publication permits. According to the Government, this amendment was made to ensure that "distorted news" was not disseminated to the public. Government power over annual license renewal and other policies created an atmosphere that inhibited independent or investigative journalism and resulted in extensive self-censorship. In October 2002, Deputy Home Affairs Minister Chor Chee Heung told Parliament that, from the beginning of 2001 until October 2002, 1,345 publications and printing premises were inspected and 2,305 volumes of publications were confiscated under the Act. Government officials continued to argue that the Act helped to preserve harmony and to promote peaceful coexistence in a multiracial country.

On October 16, the Kuala Lumpur Magistrate Court sentenced human rights monitor Irene Fernandez to 12 months' imprisonment for malicious publication of false material. The sentence was suspended pending appeal. The charge under the PPPA stemmed from a 1995 memorandum entitled "Abuse, Torture and Dehumanized Treatment of Migrant Workers at Detention Camps." The magistrate rejected Fernandez's interviews as hearsay and noted that Fernandez had made no effort to visit the camps personally (the Government does not allow NGOs to visit the camps). The proceeding was the longest criminal trial in the country's history.

A draft Media Code submitted to Parliament in 2002 sought to establish a code of conduct for all print, radio, and television journalists and to form a regulatory Media Council. While the stated purpose of the code was to raise the standards of journalism, the National Union of Journalists publicly denounced the proposed Council as an attempt to curb media freedom. Media sources alleged that press freedoms declined during the year and that news editors had little freedom in deciding what to print. Editorial decisions were frequently left to editors-in-chief chosen by the Prime Minister's office. Media staffs were routinely required to attend briefings where they were asked to be more cooperative.

In September 2002, the permit of the independently owned Chinese language newspaper *Oriental Daily Express* was suspended on the day of the paper's first issue. The Home Affairs Ministry gave no reason for the suspension but allowed the

paper to resume publication 2 months later. One month after resumption of publication, the newspaper cut its opinion page due to pressure from the Home Ministry and rival newspapers.

The Government also sometimes directly restricted the dissemination of information that it deemed embarrassing or prejudicial to national interests. For example, the Government continued its policy of not allowing public disclosure of air pollution index readings or deaths due to dengue fever.

Publications of opposition parties, social action groups, unions, and other private groups actively covered opposition parties and frequently printed views critical of government policies. However, the Government retained significant influence over these publications by requiring the annual renewal of publishing permits and limiting circulation only to organization members. The PAS newspaper, *Harakah*, was the target of several ruling party-sponsored libel suits. *Harakah* was the only major Malay- or English-language print media forum for opposition views, and its circulation rivaled that of mainstream newspapers. Since 2000, under Government stricture *Harakah* has been limited to publishing only twice monthly instead of twice a week.

Most major newspapers have online editions, which generally fall outside government regulations, as they are not required to have publication permits. The Government engaged in a campaign to discredit the independent Internet daily, *Malaysiakini.com*, winner of an International Press Institute 2001 Press Freedom Award. In January, the ruling party youth movement, United Malays National Organization Youth, (UMNO Youth) lodged a complaint against *Malaysiakini* over a letter published on the website that allegedly contained seditious remarks. In response, police raided the daily's offices, confiscating 15 computers and 4 servers, and shutting down the company's online service for over 10 hours. While the Government continued to deny *Malaysiakini* formal press accreditation, its reporters were allowed to cover government functions and ministers' press conferences.

Printers, who also must have their permits renewed annually, often were reluctant to print publications that were critical of the Government.

During the year, the Government interfered with the timely release and distribution of several foreign magazines, including the *Far Eastern Economic Review* and *The Economist*. Government officials, including the Prime Minister, continued to accuse the foreign media of harboring ill intentions toward the country and of deliberately misrepresenting the country's political and economic environment by focusing on negative news. In September, the Deputy Home Minister said the Government would consider a ban against any foreign magazine that made unfounded allegations against the country and its leaders.

The electronic media was restricted more tightly than the print media. Radio and television stations almost uniformly were supportive of the Government's news coverage and commentary. News of the opposition was restricted tightly and reported in a biased fashion. Opposition representatives said they were unable to have their views heard and represented on the country's television and radio stations. In the period preceding a 2002 by-election, the government-owned television networks ran a recurring prime-time news clip likening the opposition PAS party to the Taliban.

The two privately owned television stations had close ties to the ruling coalition and were unlikely to provide a forum for the opposition parties. In 2002, the Government did not approve a longstanding license application for a state radio station in opposition-controlled Kelantan State. Internet television faced no such restrictions. In 2001, PAS launched its own Internet television studio, with daily broadcasts.

The Government censored books and films for profanity, nudity, sex, violence, and certain political and religious content. Television stations censored programming in line with government guidelines. Some foreign newspapers and magazines were banned, and, infrequently, foreign magazines or newspapers were censored, most often for sexual content. However, the increased prevalence of the Internet undermined such restrictions. The Government maintained a "blacklist" of local and foreign performers, politicians, and religious leaders who were not allowed to appear on television or radio broadcasts. The Government continued to try to block the production, distribution, and sales of unauthorized video compact discs (VCDs) and digital video discs (DVDs), especially those with pornographic or sensitive political content.

The Communications and Multimedia Act (CMA) requires certain Internet and other network service providers to obtain a license. In the past, the Government stated that it did not intend to impose controls on Internet use, but noted that it would punish the "misuse" of information technology under the CMA. During the year, the Government did not use licensing provisions under the CMA to interfere with Internet access or to restrict Internet content.

The Government generally restricted remarks or publications that might incite racial or religious disharmony; it also attempted to restrict the content of sermons at mosques in the states controlled by the ruling coalition. Some state governments banned certain Muslim clergymen from delivering sermons, and more recently, active monitoring of sermons began in certain states (see Section 2.c.). The Religious Affairs Department continued to conduct background checks on all clergymen. The Government also cracked down on the distribution and sale of the opposition party's VCDs and audiocassettes.

The Government places some restrictions on academic freedom, particularly the expression of unapproved political views, and the Government enforced restrictions on teachers and students who expressed dissenting views. In 2002, the Government began to require that all civil servants, university faculty, and students sign a pledge of loyalty to the King and the Government. Opposition leaders and human rights activists claimed that this was intended to restrain political activity among civil servants, academics, and students. Although academics sometimes were publicly critical of the Government, there was clear self-censorship among public university academics whose career advancement and funding depended on the Government. In 2001, senior government officials said that teachers who opposed the Government and students who took part in anti-government activities would face disciplinary actions, including dismissal and expulsion. In February, a Universiti Teknologi Malaysia lecturer who was pursuing his doctorate had his scholarship revoked after he was found to have been involved in anti-government activity. In June, seven university students were denied the right to continue their studies after being charged with illegal assembly.

Private institution academics practiced self-censorship as well, fearing that the Government might revoke the licenses of their institutions. The law also imposes limitations on student associations and student and faculty political activity (see Section 2.b.).

The Government has long stated that students should be apolitical and used that assertion as a basis for denying parties access to student forums. According to student leaders, students who signed anti-government petitions sometimes were expelled or fined. The Government enforced this policy selectively and did not refrain from spreading government views on political issues among students and teachers.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of peaceful assembly; however, in practice, the Government placed significant restrictions on this right. This right may be limited in the interest of security and public order, and the Police Act requires police permits for all public assemblies except for workers on picket lines. The decision to grant a permit theoretically rests with the district police chief; however, in practice, senior police officials and political leaders influenced the grant or denial of some permits. Police granted permits routinely to government and ruling coalition supporters; however, they used a more restrictive policy with government critics. In July 2001, the Government ceased issuing permits for all political meetings throughout the country. This was widely perceived as an effort to target the activities of the political opposition, although some opposition rallies continued to be held. In 2002, PAS filed a suit against the Government protesting the ban. In January, opposition activists attending a political forum organized by PAS were arrested for illegal assembly. Similarly, in July, an outdoor march in support of rape victims was cancelled after police refused a permit on grounds of “public security.” However, in September, the Elections Commission announced that public rallies by political parties would be permitted for the upcoming general election, subject to appropriate police permits.

In July, Suhakam's third annual report reiterated the Commission's earlier criticism of government-imposed restrictions on freedom of assembly. In 2001, Suhakam released a report highlighting the fact that the right of assembly is provided for in the Constitution; it recommended easing police permits for gatherings, setting up a special “speaker's corner,” and reviewing laws that restrict the right to free assembly. The Government responded by calling the report “biased and idealistic” and influenced by “Western liberal thinking.”

The Constitution provides for the right of association; however, the Government placed significant restrictions on this right and certain statutes limit this right. Under the Societies Act, only registered, approved organizations of seven or more persons may function as societies. The Government sometimes refused to register organizations or imposed conditions when allowing a society to register. The Government prohibited the Communist Party and affiliated organizations to register and has blocked the registration of the Socialist Party of Malaysia since 1999 (see Section 1.f.). The Government also has the power to revoke the registration of an existing society for violations of the Act, a power that it enforced selectively against political opposition groups.

In 2001, Parliament amended the Registration of Businesses Act to enable the Registrar to revoke or refuse the registration of organizations deemed to be engaging in unlawful activities or with purposes that were incompatible with national security. Some human rights activists expressed concern that this could be used to restrict NGOs that were critical of the Government.

Under the Companies Act, the Registrar of Companies may refuse to register a proposed company or disband an existing company if he is satisfied that the company is likely to be used for any purpose prejudicial to national security or the public interest. Opposition parties and NGO activists alleged that the sweeping powers granted to the Registrar of Companies were designed to stifle criticism. The Government denied these charges and stated that financial irregularities were the amendments' main target.

The Universities and University Colleges Act also restricts freedom of association. This act mandates university approval for student associations and prohibits student associations and faculty members from engaging in political activity. Many students, NGOs, and opposition political parties called for the repeal or amendment of the act. A number of ruling coalition organizations and politicians also supported reexamination of the act, but the Government argued that the act still was necessary.

c. Freedom of Religion.—The Constitution provides for freedom of religion; however, the Government placed some restrictions on this right. Although Islam is the official religion, the practice of Islamic beliefs other than Sunni Islam was restricted significantly. Religious minorities, which include large Buddhist, Christian, Hindu, and Sikh communities, generally worshipped freely, although with some restrictions. Government funds supported an Islamic religious establishment, and it was official policy to “infuse Islamic values” into the administration of the country. The Government imposed Islamic religious law (Shari’a) on Muslims only in some matters and it did not impose Shari’a beyond the Muslim community. Adherence to Islam was considered intrinsic to Malay ethnic identity in peninsular Malaysia and therefore Islamic religious laws administered by state authorities through Islamic courts bind all ethnic Malays (and other Muslims) in some matters. Then-Prime Minister Mahathir’s remarks about Jews at the October summit of the Organization of the Islamic Conference (OIC) drew international condemnation. Prime Minister Abdullah Badawi, who succeeded Mahathir 2 weeks after the OIC speech, subsequently emphasized religious tolerance towards all faiths.

The Registrar of Societies, under the Ministry of Home Affairs, registers religious organizations. Registration enables organizations to receive government grants and other benefits.

Muslims who wished to convert from Islam faced severe obstacles. In 2001, a High Court judge rejected the application of a Malay woman who argued that she had converted to Christianity and requested that the term “Islam” be removed from her identity card. The judge ruled that an ethnic Malay is defined by the Federal Constitution as a “person who professes the religion of Islam.” The judge also stated that only an Islamic court has jurisdiction to rule on the woman’s supposed renunciation of Islam and conversion to Christianity. In 2002, the Court of Appeal upheld this decision. These rulings made conversion of Muslims nearly impossible in practice.

In 2000, Perlis State enacted a law requiring that Muslims found guilty of apostasy by a Shari’a court be sent to “faith rehabilitation centers.” Since its enactment, there have been no convictions under this law.

The Government generally respected non-Muslims’ right of worship; however, state governments carefully controlled the building of non-Muslim places of worship and the allocation of land for non-Muslim cemeteries. In 1999, the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, and Sikhism (MCCBCHS) protested the planned implementation of Ministry of Housing and local government guidelines governing non-Muslim places of worship. The MCCBCHS specifically complained that the guidelines required an area to have at least 2,000 adherents of a non-Muslim faith before a building permit would be granted. As a result of the controversy raised by this issue, the MCCBCHS and the Federal Territory Counseling and Service Center separately urged the Prime Minister to create a national “inter-religious” council to improve understanding among different religious groups. Muslim NGOs opposed the proposal, arguing that such a council would have powers to endorse apostasy and could pave the way for other religions to spread their teachings among Muslims.

Proselytizing of Muslims by members of other religions is strictly prohibited although persons proselytizing non-Muslims face no obstacles. The Government discouraged the circulation in the country’s peninsular region of Malay-language translations of the Bible and distribution of Christian tapes and printed materials in

Malay. However, Malay-language Christian materials could be found. The distribution of Malay-language Christian materials faced few restrictions in the eastern part of the country.

While representatives of non-Muslims do not sit on the immigration committee that approves visa requests from members of the clergy, the MĀCBCHS is asked for its recommendation.

The Government opposed what it considers to be “deviationist” interpretations of Islam, maintaining that the deviant groups’ extreme views endanger national security. In the past, the Government imposed restrictions on certain Islamic groups, primarily the small number of Shi’a Muslims. The Government continued to monitor the activities of the Shi’a minority and religious groups believed to be involved in deviant Islamic teachings. In 2000, the Shari’a Court in Kelantan State sentenced four persons to 3 years in jail for disregarding a lower court order to recant their allegedly heretical Islamic beliefs and to return to the true teachings of Islam. The High Court rejected their argument that Shari’a law had no jurisdiction over them because they had ceased to be Muslims. In 2002, the Court of Appeal affirmed the High Court ruling. The four individuals subsequently filed an appeal with the Federal Court that was still pending at year’s end. In a similar case also in 2002, the Federal Court ruled that civil courts have no power to intervene in matters pertaining to Shari’a court orders involving Muslim parties and Islamic law.

The Government periodically detained members of deviant sects. In July, the Selangor Religious Affairs Department detained 67 members of the group Islam Jamaah, claiming that the teachings of the group were detrimental to society. The members were charged under the Selangor Shari’a Criminal Enactment and if convicted are liable to a 2-year jail term and/or a fine of \$800 (3,000 ringgit). The case was still pending at year’s end.

The Government generally restricted remarks or publications that might incite racial or religious disharmony. This included some statements and publications critical of particular religions, especially Islam. The Government also restricted the content of sermons at mosques. The Government periodically warned against those who delivered sermons in mosques for “political ends,” and, occasionally, state governments banned certain Muslim clergymen from delivering sermons at mosques.

For Muslim children, religious education according to a government-approved curriculum is compulsory. There were no restrictions on home instruction.

In 2002, the Government implemented a policy that requires all Muslim civil servants to attend Islamic classes taught by government-approved teachers.

In family and religious matters, all Muslims are subject to Shari’a law. Efforts by the PAS-led governments of Terengganu State and Kelantan State to implement Shari’a criminal law (see Section 5), which would impose Islamic penalties for theft, robbery, illicit sex, drinking alcohol, and the renunciation of Islam have been challenged in Federal court, and the cases were still pending as of year’s end. In September, the Deputy Prime Minister stated that police could not enforce Islamic criminal law (hudud) until the Attorney General decided on the matter and that the criminal procedure code was still in effect in Terengganu. The PAS-controlled state governments in Terengganu and Kelantan have placed restrictions on non-Muslims consuming alcohol, gambling, and dancing. Reportedly, women were subject to discriminatory interpretations of Shari’a law and inconsistent application of the law from state to state.

The Government has a comprehensive system of hiring and other preferences for ethnic Malays and members of a few other groups, known collectively as “bumiputras,” most of whom are Muslim (see Section 5).

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—Citizens generally have the right to travel, live, and work where they please; however, the Government restricted these rights in some circumstances. The eastern states of Sabah and Sarawak control immigration and require citizens from peninsular Malaysia and foreigners to present passports or national identity cards for entry. In 2002, the Federal Court ruled that Sabah’s exclusive control on immigration was provided for in the Constitution and could not be challenged. In August, a prominent local human rights activist was denied entry to Sarawak and returned to peninsular Malaysia, allegedly due to her anti-logging positions. NGOs claimed that some citizens were blacklisted and not permitted to travel outside of Malaysia as they might “tarnish the reputation” of the country.

The Government regulated the internal movement of provisionally released ISA detainees. The Government also used the Restricted Residence Act to limit movements of those suspected of some criminal activities (see Section 1.d.).

Citizens must apply for government permission to travel to Israel.

The Government has not ratified the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol and does not abide by customary international law in this area. The Government sometimes granted temporary refuge to asylum seekers. In August, the police arrested over 240 Acehnese asylum seekers outside the office of the United Nations High Commissioner for Refugees (UNHCR) in Kuala Lumpur. On August 28, the Prime Minister stated that Acehnese would not be allowed to seek political asylum and would be deported. The UNHCR and a number of human rights groups protested the government policy, asserting that it was contrary to customary international law.

In January, Suhakam called on the Government to reconsider caning as a penalty for illegal immigrants alleging that it amounts to cruel and inhumane treatment. The new immigration law, in effect since 2002, provides for 6 months in prison and up to six strokes of the cane for immigration violations. In practice, due to delays in processing travel documents, many illegal immigrants were detained in the camps for over a year (see Section 1.d.).

The Government does not distinguish between asylum seekers and illegal immigrants, and those under detention were detained together. Detention facilities were overcrowded and lacked medical facilities. Detainees allegedly were provided inadequate food and were subject to abuse. Local NGOs maintained that there were some forced expulsions of asylum seekers and refugees during the year.

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

By law, citizens have the right to change their Government through periodic elections; however, while votes generally were recorded accurately, there were irregularities that affected the fairness of elections.

In practice, opposition parties were unable to compete on equal terms with the governing coalition (which has held power at the national level since 1957) because of significant restrictions on campaigning, freedom of assembly, freedom of association, and access to the media. Nevertheless, opposition candidates campaigned actively, with some success in state and national elections. In 2002, the opposition retained a seat in the Kedah state assembly but lost a national Parliamentary seat in a tightly contested election. In the last national election, held in 1999, the opposition more than doubled the number of its seats in parliament from 20 to 45, out of a total of 193.

The country has a parliamentary system of government with a bicameral legislature. National elections are required for the lower chamber at least every 5 years and have been held regularly since independence in 1957. Members of the upper chamber, the Senate, are appointed. The Malay-based UMNO party dominates the ruling National Front coalition. Since 1969, the National Front coalition always has maintained at least a two-thirds majority in parliament, which enables the Government to amend the Constitution at will. Over the years, power increasingly has been concentrated in the Prime Minister. In October, Mahathir Mohamad, who had been Prime Minister since 1981, retired and relinquished power to his deputy, Abdullah Badawi.

The lack of equal access to the media was the most serious problem encountered by the opposition in the November 1999 elections (see Section 2.a.). Government-owned stations and the country's two private television stations had virtually no impartial reporting on the opposition. The mainstream English- and Malay-language newspapers carried biased coverage of domestic politics as well. In addition, opposition parties encountered difficulties in placing paid advertisements in newspapers; however, a few opposition advertisements did appear, after editing by the newspapers, in English- and Chinese-language newspapers.

Opposition leaders claimed that the Election Commission, which is responsible for holding and monitoring elections, did not carry out its duties impartially. The Election Commission is nominally independent but was perceived to be under the control of the Government. NGOs were permitted to form an independent election watch organization, but the organization was accorded no special privileges.

Opposition complaints of irregularities by election officials and allegations of other election fraud during the 1999 campaign were not substantiated, and, according to most observers, there was no evidence that the conduct of election officers significantly affected the results of the 1999 elections. Opposition leaders complained that, in the past, local government officials who served as election officers were not always neutral. In the 1999 elections, the Government did not permit international monitoring or adequately allow for domestic NGO monitoring efforts.

Opposition parties complained about their inability to monitor postal votes (absentee ballots) cast by police and military personnel. The Government, citing security concerns, did not allow party agents to monitor postal vote boxes on military and

police installations. Opposition parties questioned the rationale for such security restrictions. They also raised credible allegations of improper manipulation of postal votes, including statements by former military personnel that their ballots were filled out by others or under the eye of commanding officers.

In the 1999 elections, ballots were marked with a serial number that could be matched against a voter's name. While there was no evidence that the Government ever traced individual votes, some opposition leaders alleged that the potential to do so had a chilling effect on some voters, particularly civil servants.

The Constitution states that parliamentary constituencies should have approximately equal numbers of eligible voters, although the same section states that greater weight should be given to rural constituencies. In recent years, changing demographics and redistricting have reduced the voting advantage previously given to rural constituencies. The Government conducted a nationwide electoral redistricting exercise during 2002. In June, 25 new parliamentary seats were added primarily in states in which the ruling coalition is strong. In September, the opposition complained that the two states it controlled did not get any new seats and that the redistricting was undertaken by the Government to weaken the opposition in the next elections.

Other government measures hampered the opposition's ability to compete with the incumbent ruling coalition. For example, the Government on several occasions issued public warnings to civil servants, including teachers, not to support the opposition (see Section 2.a.). Students faced certain restrictions on political activity (see Sections 2.a. and 2.b.). Government leaders routinely and openly threatened to suspend the allocation of federal funds beyond the constitutionally mandated minimum to constituencies that elected opposition representatives. Ruling coalition members of Parliament received a government allocation totaling approximately \$25 million (95 million ringgit). Opposition members of parliament received no such funds.

In the past, the opposition complained about restrictions on public assemblies during the campaign period (see Section 2.b.). However, the opposition held many large rallies before the 1999 elections. In September, the Elections Commission indicated that it would lift the ban on political rallies for the next general elections.

In 2002, Parliament passed an amendment to the Election Offenses Act providing that anyone raising "sensitive issues" such as religion or race before, during, or after an election could be removed from the electoral roles or banned from standing in an election for 5 years. It also prescribed a prison sentence of up to 5 years and a \$13,000 (50,000 ringgit) fine for violators of the law.

Under the electoral law, unsuccessful candidates may appeal election results to special election courts in instances of alleged fraud, vote tampering, or other infractions of electoral rules. However, in July 2002, Parliament passed an amendment to the electoral law forbidding judicial scrutiny of voter rolls after the Election Commission has certified them.

Over the years, Parliament's function as a deliberative body has deteriorated. Legislation proposed by the Government rarely was amended or rejected. Legislation proposed by the opposition never was given serious consideration. Opposition opportunities to hold legislation up to public scrutiny have diminished. In 2001, a member of Parliament from the opposition Democratic Action Party was suspended without pay for 6 months after publicly criticizing the parliamentary Speaker for disallowing discussion concerning corruption in the process of certifying lawyers.

The 1995 parliament amended its rules to strengthen the power of the Speaker and to curb parliamentary procedures frequently used by the opposition. The amendments empowered the Speaker to ban members he considered unruly for up to 10 days, imposed limits on deputies' ability to pose supplementary questions and revisit non-germane issues, and established restrictions on the tabling of questions of public importance. Further measures in 1997 and 1998 limited even more severely members' opportunities to question and debate government policies. In 2001, an amendment to the parliamentary Standing Orders permitted the Speaker to edit written copies of members' speeches before the speeches were delivered. Nonetheless, Government officials often faced sharp questioning in Parliament, although this was not always reported in detail in the press.

After the 1969 inter-communal riots, the Government abolished elected local government in favor of municipal committees and village chiefs appointed by state governments. Some politicians and NGO activists advocated the reintroduction of local government elections. Even some ruling party municipal officials noted that local bodies were simply "rubber stamps" for the Government.

Women faced no legal limits on participation in government and politics, and the Government proposed a "plan of action for the advancement of women" to redress inequalities that did exist. At year's end, 3 of 28 cabinet ministers were women. Women held 20 of 193 seats in the House of Representatives, and they held 19 of

69 seats in the Senate. In 2001, the Prime Minister established the Ministry of Women's Affairs and Family Development and appointed a prominent female politician as its first minister. In August, noting the low percentage of women in legislative seats, the Minister of Women's Affairs asserted that, "It is a simple fact of life that women operate in a very unequal workplace environment." PAS does not allow women to stand as candidates for the House of Representatives; however, the party has three female senators. In the past, it has supported female candidates of other parties.

Ethnic minorities are represented in cabinet-level positions in Government, as well as in senior civil service positions. The political dominance of the Malay majority meant, in practice, that ethnic Malays held the most powerful senior leadership positions. Non-Malays filled 9 of the 28 cabinet posts and 16 of 31 deputy minister positions. An ethnic Chinese leader of a component party of the ruling coalition was Chief Minister of Penang State.

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

A number of NGOs, including the Bar Council and other public interest groups, devoted considerable attention to human rights. The Government generally tolerated their activities but often did not respond to their inquiries or press statements. Government officials met with NGOs on several occasions during the year. Although Government officials harshly criticized domestic NGOs for collaborating with foreigners, including international human rights organizations, in recent years, no group was banned or decertified.

The Government generally did not allow international human rights organizations to form domestic branches; however, it usually did not restrict access by representatives of those organizations. The Government did not allow Amnesty International (AI) to set up a branch as an NGO. However, AI incorporated itself as a business, and it was able to function much like an NGO.

The National Human Rights Commission (Suhakam) under the leadership of former Attorney General Abu Talib has come to be seen by some analysts as a credible monitor of the human rights situation in the country and a check on police activities that previously lacked oversight. The legislation that created Suhakam defines human rights as "the fundamental liberties provided for" in the Constitution and restricts the application of the Universal Declaration of Human Rights to those provisions consistent with the Constitution. Opposition leaders and NGOs, including the Bar Council, criticized this definition of human rights as too narrow. Suhakam is not empowered to inquire into allegations relating to ongoing court cases and must cease its inquiry if an allegation under investigation becomes the subject matter of a court case.

In July, Suhakam published its third annual human rights report, which criticized deaths in police custody, detentions without trial, and reiterated Suhakam's opposition to government-imposed restrictions on freedom of assembly. It also called for the repeal and replacement of the ISA with new legislation that is more in line with human rights principles.

During the year, Suhakam commissioners traveled throughout the country to educate community leaders, including police officials, on the purposes of the Commission and the importance of human rights. Commissioners also made several visits to prisons throughout the country to monitor conditions. In March, Suhakam released a report on the condition of ISA detainees. The report noted some human rights violations and outlined 18 recommendations aimed at improving conditions. Some observers credited Suhakam with the release of six opposition activists detained under the ISA.

Some observers acknowledged Suhakam as one of the few institutions in society with any ability to challenge, however tentatively, executive control. In August, Suhakam itself noted that a major challenge that remained unresolved was the slow government response to their reports on major issues that touched on fundamental liberties. In September, the then-Deputy Prime Minister (now Prime Minister) praised Suhakam for playing a positive and constructive role in the national dialogue on human rights.

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

The Constitution provides for equal protection under the law and prohibits discrimination against citizens based on religion, race, descent, or place of birth. In 2001, Parliament unanimously approved a constitutional amendment barring discrimination on the basis of sex. However, discrimination based on some of these factors persisted. For example, government policies gave preferences to ethnic Malays in housing, home ownership, the awarding of government contracts, educational

scholarships, and other areas. Neither the Constitution nor other laws explicitly prohibited discrimination based on physical or mental disabilities, but the Government promoted greater public acceptance and integration of persons with disabilities.

Women.—Violence against women remained a problem. Spousal abuse drew considerable government, NGO, and press attention. According to the Women's Aid Organization, there were over 3,000 cases of domestic violence reported during the year.

The Domestic Violence Act addresses violence against women in the home. However, women's groups criticized the act as inadequate and called for amendments to strengthen it. In their view, the act fails to protect women in immediate danger by requiring separate reports of abuse to be filed with both the Welfare Department and the police, causing delay in the issuance of a restraining order against the perpetrator. Women's rights activists also highlighted the fact that, because the act is a part of the Penal Code, legal protection for victims is limited to cases in which visible evidence of physical injury is present, despite its interpretation to include sexual and psychological abuse.

Although the Government, NGOs, and political parties established shelters and offered other assistance to battered spouses, activists asserted that support mechanisms for victims of domestic violence remained inadequate. The police established a Sexual Investigations Unit at each police headquarters as part of a nationwide effort to help victims of sexual crimes and abuse. Police responses and sensitivity to complaints of domestic violence improved, but women's rights activists claimed that the police needed additional training in handling domestic abuse as well as rape cases. In September, the Minister for Women and Family Development urged the Government to place female officers at each police station to deal with victims who are often reluctant to lodge reports with male personnel. In December, the Prime Minister, who is also the Home Affairs Minister, directed all district police stations to establish units specially trained to minimize the trauma faced by victims of sex crimes and domestic violence.

Some Shari'a experts have urged Muslim women to become more aware of the provisions of Shari'a that prohibit spousal abuse and provide for divorce on grounds of physical cruelty. However, provisions in state Shari'a laws generally prohibit wives from disobeying the lawful orders of their husbands and present an obstacle to women pursuing claims against their husbands in Shari'a courts. Muslim women were able to file complaints in the civil courts.

Spousal rape is not a crime. Theoretically a man who raped his wife could face charges of assault; however, reportedly no man has been convicted under such circumstances.

Reports of rape were common in the press and among women's rights groups and NGOs. According to police statistics, 714 women were raped in the first 7 months of the year. Many government hospitals have set up crisis centers where victims of rape and domestic abuse could make reports without going to a police station. NGOs and political parties also cooperated in providing counseling for rape victims. However, cultural attitudes and a perceived lack of sympathy from the largely male police force resulted in many victims not reporting rapes. According to the Ministry of Women's Affairs and Family Development and a leading woman's NGO, only 10 percent of rape cases were reported to the police. In November, the Penal Code was amended to increase the punishment for rape to include imprisonment for a term of 5 to 30 years, caning, and a fine. While some rapists received heavy punishments, including caning, women's groups noted that other rapists received inadequate punishments. In September 2002, a police constable was acquitted of charges of raping two foreign women who were in police custody. The Sessions Court ruled that the acts had been consensual. Following sharp public criticism of the verdict, the Attorney General's office filed an appeal. In August, the High Court overturned the Sessions Court's decision and sentenced the policeman to 15 years in prison.

In July 2002, the PAS-controlled Terengganu state assembly passed the Shari'a Criminal Offenses Bill (see Section 2.c.). The Government, led by the Minister of Women's Affairs and Family Development, argued that the proposed law discriminates against women, especially in regard to rape cases. Under the new state law, conviction for rape would require four Muslim male eyewitnesses of good standing to testify if adequate physical evidence was lacking. Women and non-Muslims would be barred from testifying. Illicit sex is punishable with death by stoning if the man or woman is married. For unmarried offenders, the punishment is 100 lashes and 1 year in prison. One prominent NGO critic of the law noted that the provision requiring four male witnesses originally was intended to protect women from false accusations of illicit sex and not as an additional burden of proof for rape victims. The law remained in limbo at year's end, as its implementation requires an amendment to the Federal Constitution. A suit filed in the Federal Court challenging a similar

proposed Kelantan state law on the constitutional grounds that states have no authority over criminal law was pending at year's end.

In the past, some NGOs reported instances of female genital mutilation (FGM) in rural areas, but there have been no reports of such practices in recent years.

Prostitution exists but is not widespread. Prostitution was prosecuted but statistics were only available for foreigners arrested on immigration charges with suspected involvement in prostitution. The number of such persons arrested during the year was 5,584 compared to 4,132 arrested in 2001. Police attributed the increase to more vigorous enforcement efforts.

The country was a source and destination country for trafficking in women for purposes of prostitution (see Section 6.f.).

The Government's Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace provides a detailed definition of sexual harassment and attempts to raise public awareness of the problem, but women's groups advocated passage of a law on sexual harassment in lieu of the voluntary code of conduct. The Malaysian Employers Federation opposed any attempt to legislate against sexual harassment in the workplace, arguing that government-imposed policies would unduly restrict the management of labor relations. Since the Code's 1999 introduction, the number of reported incidents of sexual harassment has risen. In July, the Women's Aid Organization reported that it receives approximately 2,000 calls per year relating to all forms of abuse against women.

According to the Minister of Women's Affairs and Family Development, by September 2001 only 1 percent of registered companies in the country had adopted the code. Despite the 2001 approval of a constitutional amendment banning discrimination based on sex, women continued to be the victims of legal discrimination.

Polygyny is allowed and practiced to a limited degree. Islamic inheritance law varies by state, but it generally favors male offspring and relatives. However, one state, Negeri Sembilan, provides for matrilineal inheritance. The number of women obtaining divorces under the provisions of Shari'a that allow for divorce without the husband's consent, while small, was increasing steadily.

Women's rights advocates asserted that women still face discriminatory treatment in Islamic courts due to prejudicial interpretation of Islamic family law and the lack of uniformity in the implementation of family laws among the various states. In 2002, the Sultan of Selangor, who is also the senior Islamic figure in the state, acknowledged the bias against women of Shari'a court judges. In previous years, female activists reported that the premarital courses Muslim couples are required to take perpetuated gender discrimination by misinforming women regarding their rights in marriage. However, there were no such reports during the year.

State governments in Kelantan and Terengganu, which were controlled by PAS, made efforts to restrict Muslim women's dress. In 2002, a local council in Kelantan fined 120 Muslim women for failing to adhere to the dress code while at work. In 2000, the Terengganu state government introduced a dress code for government employees and workers on business premises.

Non-Muslim women are subject to civil (secular) law. The Guardianship of Women and Infants Act was amended in 1999 to give mothers equal parental rights. Four states extended the provisions of the amended bill to Muslim mothers. Women's groups urged all states to do the same. In 2002, Parliament approved an amendment to the Group Settlement Act that gives wives of settlers a joint stake in the land awarded to their husbands.

The Government undertook a number of initiatives to promote equality for women and the full and equal participation of women in education and the work force. Women were represented in growing numbers in professional positions; however, in August the Minister of Women's Affairs and Family Development noted that, while 46 percent of public sector staff were women, only 15 percent held key posts. The media reported in September that women made up 12 percent of the police force. In the scientific and medical fields, women made up more than half of all university graduates, and the total representation of women at universities increased from 29 percent in 1970 to over 50 percent of the student population in recent years. According to the national union of bank employees, 65 percent of members were women, but only one out of eight principal banking officials was a woman.

Children.—The Government has demonstrated a commitment to children's rights and welfare and spends approximately 23 percent of the national budget on education. The Government provides free education for children through 15 years of age. Although primary education is compulsory, there is no enforcement mechanism governing school attendance. Actual attendance at primary school is 96 percent, while secondary school attendance is 82 percent. A variety of programs provided low cost health care for most children.

In 2002, the Child Act of 2001 went into force. The act incorporates the principles of the U.N. Convention of the Rights of the Child, prescribing more severe punishments for child abuse, molestation, neglect, and abandonment. It also mandates the formation of a Children's Court, which the Government stated would better protect the interests of children; however, the court has not yet been established. The act allows caning of male children between the ages of 10 and 18 years, who may receive a maximum of 10 strokes with a "light cane."

The Government recognized that sexual exploitation of children and incest were problems. Incest in particular was a problem in rural areas. A 2002 amendment to the Penal Code provides for from 6 to 20 years' imprisonment and caning for individuals convicted of incest. In September, a man was sentenced to 14 years and 10 strokes of the cane for raping his 15-year-old daughter. However, under the Evidence Act, the testimony of children is accepted only if there is corroborating evidence. This poses special problems for molestation cases in which the child victim is the only witness. Some judges and others recommended that the Evidence Act be amended to accept the testimony of children and that courts implement special procedures to hear the testimony of children.

Statutory rape occurred and was prosecuted. However, Islamic law provisions that consider a Muslim girl an adult after she has had her first menstruation sometimes complicated prosecution of statutory rape. Such a girl may be charged with "khalwat" or "close proximity" (the charge usually used to prosecute premarital or extramarital sexual relations), even if she is under the age of 18 and her partner is an adult. Thus Shari'a courts sometimes punished the victims of statutory rape. Moreover, Shari'a courts sometimes were more lenient with males who were charged with "close proximity." However, in many cases Muslim men were charged and punished for statutory rape under secular law.

In the past, some girls in rural areas were subject to varying forms of FGM (see Section 5).

Child prostitution existed, but child prostitutes often were treated as delinquents rather than victims. According to police statistics, in 2002, 97 girls under 18 were detained and sent to rehabilitation centers for involvement in immoral activities (see Section 6.f.).

Child labor occurred in certain areas of the country (see Section 6.d.).

Persons with Disabilities.—The Government did not discriminate against persons with disabilities in employment, education, or in the provision of other state services. A public sector regulation reserves 1 percent of all public sector job openings for persons with disabilities. Few public facilities were adapted to the needs of persons with disabilities, and the Government has not mandated accessibility to transportation or public buildings for persons with disabilities. However, new government buildings were generally outfitted with a full range of facilities for persons with disabilities.

In 2001, the Government announced the Code of Practice for the Employment of Persons with Disabilities in the Private Sector as a guideline for all government agencies, employers, employee associations, employees, and others to place suitable persons with disabilities in private sector jobs. In its second annual report, Suhkam recommended the passage of a Disabled Persons Bill to address discriminatory practices and to eliminate architectural and communication barriers facing persons with disabilities.

Special education schools existed, but were not sufficient to meet the needs of the disabled population. The Government undertook many initiatives to promote public acceptance of persons with disabilities, to make public facilities more accessible to persons with disabilities, and to increase budgetary allotments for programs aimed at aiding them. Recognizing that public transportation was not disabled-friendly, the Government reduced the excise duty for persons with disabilities on locally made cars and motorcycles by 50 percent. The most recent statistics indicated that persons with disabilities made up 7 percent of the population.

Indigenous People.—Indigenous people (the descendants of the original inhabitants of the peninsular region of the country and the Borneo states) generally enjoyed the same constitutional rights as the rest of the population. However, in practice, federal laws pertaining to indigenous people of the peninsular region, known as the Orang Asli, vest considerable authority in the Minister for Rural Development, to protect, control, and otherwise decide issues concerning this group. As a result, indigenous people, particularly in peninsular Malaysia, had very little ability to participate in decisions that affect them.

The Orang Asli, who numbered approximately 133,000, were the poorest group in the country. According to government statistics, over 80 percent of the Orang Asli live below the poverty level. In 2002, the Cabinet approved the formation of a na-

tional advisory council for the development of Orang Asli. However, only 5 out of 17 council members were Orang Asli. In July, the Government announced development projects for the Orang Asli totaling \$26.3 million (100 million ringgit) for the 2004 fiscal year focused on improving the health, pre-school education, infrastructure, and economic activities of the Orang Asli community. Nonetheless, according to a local NGO the percentage of Orang Asli living below the poverty line increased during the year.

Under the Aboriginal People's Act, the Orang Asli who had been granted land on a group basis were permitted to live on reserves but did not possess land rights. Observers reported that, over the years, the total area of land reserved for Orang Asli had decreased, and some land previously set aside as Orang Asli reserve had been re-zoned for development.

The uncertainty surrounding Orang Asli land ownership made them vulnerable to exploitation. Logging companies continued to encroach on land traditionally held by Orang Asli and other indigenous groups in the Borneo states. In May, Orang Asli in Pahang State were arrested for attempting to block logging trucks from entering their land. The press reported that they were later released on bail and the logging project was cancelled. In 2002, the High Court ruled in favor of an Orang Asli group, the Temuans, as the rightful owners of land used for the construction of the Kuala Lumpur International Airport and ordered the Selangor state government to give compensation. The state government has appealed the decision, and the case was still pending at year's end.

Indigenous people in Sarawak continued to protest encroachment by state and private logging and plantation companies onto land that they consider to be theirs under native customary rights. In 2002, for example, a court refused an injunction to stop two timber companies from conducting logging activities in an area that approximately 200 indigenous people in Miri, Sarawak, claimed was their ancestral land. The indigenous persons appealed the decision, and a decision was still pending at year's end.

Laws allowing condemnation and purchase of land do not require more than perfunctory notifications in newspapers to which indigenous people may have no access. The result was that many indigenous people were deprived of their traditional lands with little or no legal recourse.

Suhakam reported that the Bakun Dam project in Sarawak encroached upon the native land of the Penans and that this encroachment caused the degradation of the forests around Penan villages and the pollution of their water supply. The Commission also noted that the development of oil palm plantations encroached on traditional lands.

National/Racial/Ethnic Minorities.—The Government maintained extensive preferential programs designed to boost the economic position of the Malay majority, which remained poorer on average than the Chinese minority. Such preferential programs and policies limited opportunities for non-Malays in higher education, government employment, business permits and licenses, and ownership of land. According to the Government, these programs were instrumental in ensuring ethnic harmony and political stability. Ethnic Indian citizens, who did not receive such privileges, remained among the country's poorest groups.

Section 6. Worker Rights

a. The Right of Association.—By law, most workers have the right to engage in trade union activity, but only 8.5 percent of the labor force was represented by the 609 trade unions. Those who do not have the right to engage in union activity include workers categorized as "confidential" and "managerial and executive," as well as defense and police officials. With certain limitations, unions may organize workplaces, bargain collectively with employers, and associate with national federations. In theory, foreign workers can join a trade union; however, the Immigration Department placed conditions on foreign workers' permits that effectively barred them from joining a trade union (see Section 6.e.).

The Trade Unions Act prohibits interfering with, restraining, or coercing a worker in the exercise of the right to form trade unions or in participating in lawful trade union activities. However, the act restricts a union to representing workers in a "particular establishment, trade, occupation, or industry or within any similar trades, occupations, or industries," contrary to International Labor Organization (ILO) guidelines. The Director General of Trade Unions may refuse to register a trade union and, in some circumstances, may also withdraw the registration of a trade union. When registration is refused, withdrawn, or canceled, a trade union is considered an unlawful association.

Trade unions from different industries may join in national congresses, but the congresses must register as societies under the Societies Act (see Section 2.b.).

Malaysian Trade Union Congress (MTUC) officials continue to express frustration about delays in the settlement of union recognition disputes. While the Industrial Relations Act requires that a union be recognized within 21 days of application, it was not uncommon for unions to go unrecognized for 1 to 2 years. During the year there were 99 claims for trade union recognition under the Industrial Relations Act. However, according to MTUC officials, during 2002, there were 10 court challenges by private companies to decisions authorizing the formation of unions. Even in-house unions sometimes faced difficulties. One company resisted concluding a collective bargaining agreement for over 12 years, in part by changing its name five times. At year's end, the company union remained in limbo pending a decision by the Court of Appeal.

Government policy inhibited the formation of national unions in the electronics sector, the country's largest industry. The Government believed that enterprise-level unions were more appropriate for this sector. According to MTUC officials, 150,000 electronics workers still were unable to organize and only 8 in-house unions were formed in the electronics industry. Collective bargaining agreements are limited in those companies designated as having "pioneer status." According to the ILO, the Government has promised to repeal this statute since 1994.

Unions maintained independence both from the Government and political parties, although individual union members may belong to political parties. Although union officers by law may not hold principal offices in political parties, individual trade union leaders have served in Parliament. Trade unions were free to associate with national labor congresses, which exercised many of the responsibilities of national labor unions, although they cannot bargain for local unions.

There are two national labor organizations. The MTUC is a society of trade unions, in both the private and government sectors, registered under the Societies Act. As such, the MTUC does not have collective bargaining or industrial action rights, but provides technical support for affiliated members. Government sector unions had opportunities to affiliate with the Congress of Unions of Employees in the Public and Civil Service, a federation of trade unions registered under the Trade Unions Act. Trade unions were also permitted to affiliate with international trade union organizations, such as global union federations and the International Confederation of Free Trade Unions, subject to the approval of the Director General of Trade Unions. Although the law grants public servants the right to organize at the level of ministries and departments, the Government did not respond to ILO requests for specific information on the numbers and categories of civil servant employees covered or details regarding the collective bargaining agreements reached. There were three national joint councils representing management and professional civil servants, technical employees, and non-technical workers.

b. The Right to Organize and Bargain Collectively.—Workers have the legal right to organize and bargain collectively, and collective bargaining was widespread in those sectors where labor was organized. Charges of discrimination may be filed with the Ministry of Human Resources or the Industrial Court. Critics alleged that the Industrial Court was slow in adjudicating worker complaints when conciliation efforts by the Ministry of Human Resources failed. However, others pointed out that the Industrial Court almost always sided with the workers in disputes. In the past, employers reportedly often ignored Industrial Court judgments with impunity. In 2002, the number of Industrial Court chairpersons was increased from 14 to 23 to address the problem of backlogged cases.

The Government holds that issues of transfer, dismissal, and reinstatement are internal management prerogatives; therefore, they are excluded from collective bargaining, which is not in accordance with ILO standards. The Minister of Human Resources can suspend for up to 6 months any trade union deemed to be used for purposes prejudicial to or incompatible with security or public order.

Although strikes are legal, the right to strike is severely restricted. The law contains a list of "essential services" in which unions must give advance notice of any industrial action. The list includes sectors not normally deemed essential under ILO definitions. The Government stated these essential services were considered crucial to the economy and the public interest. The MTUC officials said that requirements imposed by the authorities were so stringent that it was almost impossible to strike. According to the Ministry of Human Resources statistics, there were 2 strikes and lockouts involving 57 workers during the year. Employees in the public sector do not have the right to collective bargaining.

The Industrial Relations Act requires the parties to notify the Ministry of Human Resources that a dispute exists before any industrial action may be taken. The Ministry's Industrial Relations Department then may become involved actively in conciliation efforts. If conciliation fails to achieve settlement, the Minister has the power to refer the dispute to the Industrial Court. Strikes or lockouts are prohibited while

the dispute is before the Industrial Court. The act prohibits employers from taking retribution against a worker for participating in the lawful activities of a trade union. When a strike is legal, these provisions prohibit employer retribution against strikers and leaders. However, some trade unions questioned the effectiveness of the provisions.

Companies in free trade zones (FTZs) must observe labor standards identical to those in the rest of the country. Many workers in FTZ companies were organized, especially in the textile and electrical products sectors. The ILO continues to object to legal restrictions on collective bargaining in pioneer industries.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits forced or bonded labor, and the Government generally enforced this prohibition. Certain laws allow the use of imprisonment with compulsory labor as punishment for persons who express views opposed to the established order or who participate in strikes. However, these laws were not applied and appear to be constitutionally prohibited.

The Government prohibits forced and bonded labor by children, and there were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Children and Young Persons (Employment) Act prohibits the employment of children younger than the age of 14. The Act permits some exceptions, such as light work in a family enterprise, work in public entertainment, work performed for the Government in a school or in training institutions, or work as an approved apprentice. In no case may children work more than 6 hours per day, more than 6 days per week, or at night.

Child labor occurred in certain areas of the country. There was no reliable estimate of the number of child workers. Most child laborers worked informally in the plantation sector, helping their parents in the field. However, only adult members of the family received a wage. In urban areas, child labor could be found in family food businesses, night markets, and small-scale industries. Government officials did not deny the existence of child labor in family businesses but maintained that foreign workers have largely replaced child labor and that the Government vigorously enforced child labor provisions.

e. Acceptable Conditions of Work.—There was no minimum wage, as the Government preferred to allow market forces to determine wages. Prevailing market wages generally provided a decent living. Wage Councils, which were established by the Wage Council Act of 1947 to provide a recommended minimum wage in those sectors in which the market wage was determined insufficient, had little impact on wages in any sector. According to MTUC officials, the Wage Councils had not met for more than 12 years, and their recommended wages have long been obsolete.

Plantation workers generally received production-related payments or daily wages. In April, the National Union of Plantation Workers (NUPW) and the Malaysian Agriculture Producers Association agreed on a monthly minimum wage for palm oil plantation workers of \$92 (350 ringgit) per month. Proponents of the agreement said that productivity incentives and bonuses raised the prevailing wage to nearly \$184 (700 ringgit). In April, rubber plantation workers were provided with a similar minimum guarantee.

Under the Employment Act, working hours may not exceed 8 hours per day or 48 hours per workweek of 6 days. Each workweek must include a 24-hour rest period. The Act also sets overtime rates and mandates public holidays, annual leave, sick leave, and maternity allowances. The Labor Department of the Ministry of Human Resources is responsible for enforcing these standards, but a shortage of inspectors precluded strict enforcement.

Significant numbers of contract workers, including numerous illegal immigrants, worked on plantations and in other sectors. According to statistics from the NUPW, foreign workers made up 45 percent of the plantation work force; however, the true number may have been higher since illegal immigrants were not counted. Working conditions for these laborers compared poorly with those of direct-hire plantation workers, many of whom belonged to the NUPW.

Work-related accidents were especially high in the plantation sector. According to the Human Resources Ministry, 14 percent of all reported industrial accidents during the year occurred on plantations.

Foreign workers in the construction and other sectors, particularly if they were illegal aliens, generally did not have access to the system of labor adjudication. In 2002, government investigations into this problem resulted in a number of steps to eliminate the abuse of contract labor. For example, in addition to expanding programs to regularize the status of immigrant workers during the year, the Government investigated complaints of abuses, attempted to inform workers of their rights, encouraged workers to come forward with their complaints, and warned employers

to end abuses. Like other employers, labor contractors may be prosecuted for violating the labor laws.

The Workmen's Compensation Act covers both local and foreign workers, but provides no protection for foreign domestic workers. According to the Government, foreign domestic workers are protected under the Employment Act, particularly as regards wages and contract termination. However, employers sometimes failed to honor the terms of employment and abused their domestic servants. Some workers alleged that their employers subjected them to inhuman living conditions, withheld their salaries, and physically assaulted them.

Legal and illegal foreign workers from Indonesia, the Philippines, Burma, Thailand, India, Bangladesh, Nepal, Vietnam, and other countries constituted approximately 20 percent of the work force. Illegal foreign workers have no legal protection under the labor laws and have no legal recourse in cases of abuse.

The Occupational Safety and Health Act (OSHA) covers all sectors of the economy except the maritime sector and the military. The Act established a national Occupational Safety and Health Council, composed of workers, employers, and government representatives, to set policy and coordinate occupational safety and health measures. It requires employers to identify risks and take precautions, including providing safety training to workers, and compels companies that have more than 40 workers to establish joint management-employee safety committees. The Act requires workers to use safety equipment and to cooperate with employers to create a safe, healthy workplace. Employers or employees that violate the OSHA are subject to substantial fines or imprisonment for up to 5 years. There are no specific statutory or regulatory provisions that provide a right for workers to remove themselves from dangerous workplace conditions without arbitrary dismissal.

f. Trafficking in Persons.—The Constitution prohibits slavery; however, this provision has not been invoked in cases of trafficking in persons. There is no law that specifically criminalizes trafficking in persons. However, section 372 of the Penal Code comprehensively addresses trafficking for the purpose of prostitution and prescribes up to 15 years in prison for those convicted. The Government also uses other laws, such as the Immigration Act, the Restricted Residence Act, and the ISA to prosecute traffickers. However, the authorities generally did not separate trafficking victims from other illegal immigrants.

The country was a source and destination country for trafficking in women and girls for sexual exploitation. Young women primarily from Indonesia, China, Thailand, and the Philippines were trafficked into the country for sexual exploitation. These women often worked as karaoke hostesses, "guest relations officers," and masseuses.

During the year, the police arrested 5,584 foreign prostitutes. According to the police, members of the Bar Council, and Suhakam, the majority of foreigners found to be involved in prostitution were economically motivated. There were allegations of corruption among law enforcement personnel since some trafficking victims were known to pass through two or more ports of entry without travel documents. One NGO alleged that high-level business and political officials were involved in the trafficking. In December, the police cracked a human smuggling syndicate including Malaysian Airlines and Malaysian Airports officials.

Some Malaysian women were trafficked for sexual purposes, mostly to Singapore, Macau, Hong Kong, and Taiwan, but also to Japan, Australia, Canada, and the United States. According to police and Chinese community leaders, Malaysian women who were victims of trafficking were almost exclusively ethnic Chinese, although ethnic Malay and ethnic Indian women worked as prostitutes domestically. Police and NGOs believed that criminal syndicates were behind most of the trafficking. During the year, the Malaysian Chinese Association's social services department reported that the number of Malaysian women trafficked to other countries declined compared to previous years.

Trafficking victims were kept compliant through involuntary confinement, confiscation of travel documents, debt bondage, and physical abuse. During the year, there were a number of reports of foreign women escaping from luxury apartments where they were held and forced to serve as unwilling prostitutes. According to news reports, these women said that they were lured to the country by promises of legitimate employment and were forced into prostitution upon their arrival in the country.

In 2002, the Government amended section 372 of the Penal Code to include extensive provisions prohibiting buying or selling any person, using deceitful means to bring anyone into or out of the country, and wrongfully restraining (defined to include using threats, withholding clothing, or holding a person's passport) any person with the intention that that person will be used for the purposes of prostitution. Punishment for these offenses includes a maximum 15-year prison term, caning and

a fine, to be determined at the discretion of the sentencing judge. During the year, police investigated 31 cases under section 372, charged and tried 10 persons and convicted 7. There were 145 trafficking victims involved in these prosecutions. Additionally, during the year, 49 suspected traffickers were arrested under the Prevention of Crime Ordinance. In 2002, the Government charged 1,242 traffickers under the Immigration Act.

The Government assisted some underage prostitutes and rescued some kidnapped women during the year. In 2002, 97 underage prostitutes were sent to rehabilitation centers. The MCA reported that it assisted 73 trafficking victims in escaping from vice syndicates during the year. However, police had no comprehensive policy to protect victims of trafficking. Rather than prosecute traffickers, police generally arrested or deported individual women for immigration offenses. The police and members of the Bar Council legal aid bureau advised that this was the easiest and fastest way to expedite victims' return to their home countries. Trafficking victims who exhibit signs of physical abuse may be sent to a women's shelter instead of being detained by the police; however, permission from the police to allow victims to reside in a shelter was sometimes difficult to obtain.

A number of NGOs supported by the Government provided shelter for trafficking victims and assisted them in being repatriated to their home countries.

The Government recognized the need to improve the treatment and protection of trafficking victims. A local women's NGO was working with the Bar Council to draft legislation specifically aimed at prosecuting traffickers and protecting victims. By year's end, no action had been taken on their proposals. In 2002, the Government formed an inter-agency trafficking-in-persons working group to formulate strategies and to strengthen inter-agency and public-private cooperation against trafficking in persons. Also in 2002, the Ministry of Home Affairs formed a special anti-vice task force to target trafficking and prostitution networks and to identify and deport foreign women who entered the country, legally or illegally, and subsequently engaged in the sex trade. During the year, this task force, with a stated policy of zero tolerance for those involved in trafficking, targeted vice syndicates. In November, the Government hosted a legislative workshop on the Bali Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime; after which legislative was submitted to the Attorney General for review and action.

MARSHALL ISLANDS

The Republic of the Marshall Islands is a self-governing nation under the Compact of Free Association with the United States. The Constitution provides for executive, legislative, and judicial branches. The legislature consists of a 33-member Parliament (Nitijela), as well as a Council of Chiefs (Iroij), which serves a largely consultative function dealing with custom and traditional practice. In November, the Nitijela was elected in free and fair elections from lists of independent and party candidates. The President is elected by majority Nitijela vote and appoints his Cabinet from its membership. In 2000, the Nitijela elected Kessai Note to a 4-year term as President. The Constitution provides for an independent judiciary; however, judges are appointed by the Cabinet, and past governments have attempted to influence the judiciary.

Under the Compact of Free Association, the United States is responsible for the country's defense and national security, and the country has no external security force. The national police under the Ministry of Internal Affairs and local police forces have responsibility for internal security. The civilian authorities maintained effective control of the security forces. There were no reports that security forces committed human rights abuses.

According to 2000 statistics, the population of approximately 57,000 was of Micronesian origin and was concentrated primarily on the Majuro and Kwajalein Atolls. The economy is mixed but heavily dependent on transfer payments from the United States, which totaled approximately \$40 million during the year. Coconut oil and copra exports, a small amount of tourism, import and income taxes, an open ship registry, fresh tuna exports, a tuna loining plant, ship chandlery, and fishing licensing fees generated limited revenues. Economic growth in 2002 was approximately 4 percent, but government austerity measures have resulted in a decline in real wages for the past several years. The U.S. dollar is the national currency.

The Government generally respected the human rights of its citizens, and the law and the judiciary provide effective means of dealing with individual instances of abuse. Actions to improve the Attorney General's office and the independence of the judiciary improved the human rights situation. Violence against women and child

abuse continued to be problems, and law enforcement agencies did not take adequate measures to improve prosecution of these cases.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution forbids such practices, and there were no reports that government officials employed them.

Prison conditions, while Spartan, generally met international standards, and the Government permitted prison visits by independent human rights observers. Male juveniles and adults were detained separately. Female prisoners were held under house arrest. Pretrial detainees were not separated from the general prison population.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. Warrants are required for arrests and are issued by the courts. Detainees may request bond immediately upon arrest for minor offenses; most serious offenses require the detainee to remain in jail until a hearing can be arranged, normally the morning after arrest. Nonetheless, the Chief Justice of the High Court acknowledged in 2001 that arbitrary detentions did occur. Since that time, the Government has augmented the Attorney General's staff and taken steps to improve coordination between the police and the Attorney General's office. There were no reports of arbitrary detention over 24 hours reported during the year.

There is a national police force and local police forces. Police officers do not carry firearms, and local mores generally result in police using the minimum force necessary to detain a suspect. There were no reports of significant police corruption; however, inexperience and limited training resulted in several significant cases, including rape cases, being dropped due to procedural problems.

Families had access to detainees, and detainees have the right to lawyers of their choice. There is a functioning system of bail, and the State provides a lawyer if the defendant is indigent. The Constitution and law do not prohibit forced exile; however, the Government did not employ this practice.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. Although in the past, governments have attempted to influence the judiciary, there were no known incidents of executive pressure on the judiciary during the year. In August, the Government proposed and the Nitijela adopted legislation that updates rules of evidence, gives the judiciary more control over its funding, allows district and community courts to hear higher value cases, increases from \$50 to \$500 the definition of felony larceny, and increases pay for jurors. Since the election of President Note in 2000, the Government has increased judges' salaries by 20 percent to better attract and retain qualified judges. During the year, the Government appointed a foreign national to the High Court for a 10-year term; previously, judges were named to a 2-year term with a government option to renew the appointment for an additional 2 years. The Government cited this long-term appointment as evidence of its commitment to promoting judicial stability and leadership. The new appointee replaced a foreign national judge who was suspended in 2002 after he was charged with misappropriating government travel funds. The suspended judge denied the charges, and his court case was pending at year's end.

The judiciary consists of a Supreme Court with appellate jurisdiction, a High Court with general jurisdiction in civil and criminal matters and appellate jurisdiction over subordinate courts at the district and community levels, and a Traditional Rights Court with jurisdiction in cases involving matters of customary law and traditional practice. Few citizens were trained in the law. Therefore, the judicial system relied heavily on noncitizen public prosecutors and defense attorneys. Most lower court judges were citizens; the higher courts relied on noncitizen judges, in part to prevent conflicts of interest in the small, highly interrelated society.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press, including academic freedom.

There was one locally printed, privately owned newspaper, which published articles and opinions in both English and Marshallese. Regional publications that covered significant events were readily available. There were four private FM radio stations and one government-owned AM station. The private stations offered news broadcasts from the Voice of America, the British Broadcasting Corporation, and Radio Australia as well as religious broadcasts. Live broadcasts of the legislative sessions were carried on the government station, which generally allowed both pro- and anti-government speakers to be heard, although there were some interruptions during strongly anti-government speeches. A cable television company broadcast a variety of foreign news and entertainment programs and occasional videotaped local events.

The Government did not restrict Internet access.

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

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

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

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

In 2001, the Government enacted regulations restricting the operations of certain businesses to citizens. Efforts to correct abuses created in 1996 when the Government issued so-called investment passports (which conveyed Marshall Islands citizenship) to approximately 3,000 noncitizens continued, with the Government denying renewal in cases where the initial issuance appeared to be fraudulent.

Although not a signatory, the Government adheres to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and it cooperated with the U.N. High Commissioner for Refugees. The Government has not formulated a policy regarding refugees or asylum. However, it granted the only application for asylum received during the year, submitted by a citizen of the People's Republic of China. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Executive power is centralized in the President and his Cabinet. The Nitijela and mayors are elected by secret ballot every 4 years by citizens 18 years of age and older. Elections for the 33-member Nitijela were held on November 17 following a 2-month campaign; President Kessai Note's United Democratic Party won a majority of the seats. The elections were open, and there were no serious allegations of electoral fraud. However, the complex electoral system, which grants voters the option of voting where they have land rights instead of where they reside, requires almost every polling place to provide for voters from many other districts. A significant number of absentee ballots also were cast in the November elections. As a result, several close elections generated formal complaints against election officials for alleged mishandling of ballots and other problems, including some allegations of favoritism. The complaints still were pending at year's end.

There are no restrictions on the formation of political parties, although many candidates preferred to run independently or loosely aligned with informal coalitions. Political activity by foreigners is prohibited.

There are no legal impediments to women's participation in government and politics; however, traditional attitudes of male dominance, women's cultural responsibilities, traditionally passive roles, and the generally early age of pregnancies made it difficult for women to obtain political qualifications or experience. Three women ran for the Nitijela in November, and one was elected. Five women were members of the eight-seat House of Iroij. There were no female judges. Society is matrilineal,

and those men and women who exercised traditional leadership and land ownership powers derived their rights either from their own positions in the family or from relationships based on their mother's and sister's lineage. However, the traditional authority exercised by women has declined with growing urbanization and movement of the population away from traditional lands.

There were only a few non-ethnic Marshallese who were citizens, and none were represented in the national government.

Section 4. Governmental Attitudes Regarding International and Nongovernmental Investigations of Alleged Violations of Human Rights

Human rights groups generally operated without government restriction, but only a few local groups have been formed.

The women's nongovernmental organization Women United in the Marshall Islands (WUTMI) worked on women's, children's, and family issues and played a more significant role in social issues during the year than it has in the past.

No international human rights organization has expressed interest or concern or visited the country. A committee established in 2002 to form a local Red Cross chapter had not done so by year's end.

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

The Constitution prohibits discrimination on the basis of sex, race, color, language, religion, political or other opinion, national or social origin, place of birth, family status or descent, and the Government observed these provisions.

Women.—Spousal abuse was common. Domestic violence was not condoned in society, and most assaults occurred while the assailant was under the influence of alcohol. The Government's health office provided counseling for reported spousal and child abuse cases, but many cases apparently went unreported. Rape and assault are criminal offenses, but women involved in domestic violence were reluctant to prosecute spouses in the court system. Women's groups under the WUTMI umbrella publicized women's issues and promoted a greater awareness of women's rights. From March to April, WUTMI conducted a survey on spousal abuse. Preliminary results, which were reported in the press and discussed at a national WUTMI meeting, suggested that more than 80 percent of Marshallese women had been affected by some level of spousal abuse. The final survey report had not been published by year's end. Violence against women outside the family occurred, and women in urban centers risked assault if they went out alone after dark.

There is no legal age of consent. The law criminalizes only "forced" rape and does not specifically cite sexual assault, domestic violence, or sexual abuse. There was some national debate regarding criminalizing these acts; however, debate was hampered by cultural norms against discussion of these subjects. Several highly publicized rape cases were not prosecuted due to a combination of factors, including cultural pressures, reluctance to press charges against relatives, and police procedural errors.

In September, the Nitijela made prostitution illegal; however, prostitution exists on the Majuro and Kwajalein Atolls. Organized prostitution was run by and catered to foreigners, primarily the crews of foreign fishing vessels. There were no specific reports of violence against prostitutes, although the Government assumed that it existed. There is no law against sex tourism, and none has been reported.

Sexual harassment is not prohibited by law and was not considered a serious problem.

The inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance in the traditional system. No instances of unequal pay for equal work or of sex-related job discrimination were reported. However, while female workers were very prevalent in the private sector, many of them were in low-paying jobs with little hope of advancement.

Children.—The Government showed commitment to children's welfare through its programs of health care and free education, but these have not been adequate to meet the needs of the country's sharply increasing population.

Education is free, compulsory, and universal through eighth grade. There was no difference between the attendance rates of boys and girls.

It was estimated that up to 20 percent of elementary school-age children did not attend school on a regular basis. In many cases, this was because they lived too far away from a school or their families could not afford the monthly registration fee (which varied by school but averaged approximately \$10) or incidental expenses. The Government did not enforce the compulsory education law. Admission to high school is by competitive examination; not all children qualified to attend. The Government's enrollment report indicated that only two-thirds of those completing eighth grade attended high school. Of that number, 50 percent—or one-third of

those who started elementary school—eventually graduated. There were only three public high schools in the country: One each in Majuro, Jaluit and Wotje.

The Government provided subsidized essential medical services for all citizens, including children.

Child abuse and neglect are criminal offenses; however, public awareness of children's rights remained low. The law requires teachers, caregivers, and other persons to report instances of child abuse and exempts them from civil or criminal liability as a consequence of making such a report. However, there were few reports and few prosecutions. Child abuse and neglect were considered to be on the increase. During the year, four cases of sexual assault against minors aged 7 to 14 were reported to the Attorney General. At year's end, prosecutions were pending in three cases; one case was withdrawn because the parents did not want their child to testify. In July, two young men who sexually assaulted an infant in 2001 were sentenced to 10 years in prison for child abuse and sodomy.

Persons with Disabilities.—There was no apparent discrimination against persons with disabilities in employment, education, or the provision of other state services; however, there were no building codes and no legislation mandating access for persons with disabilities.

There were approximately 50 persons who could be medically defined as psychotic. When these individuals demonstrated dangerous behavior, they were imprisoned and visited by a doctor.

There were no reports of discrimination against persons with mental disabilities.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right of free association in general, and the Government interpreted this right as allowing the existence of labor unions, although none have been formed to date.

b. The Right to Organize and Bargain Collectively.—There is no legislation concerning collective bargaining or trade union organization. However, there were no impediments to the organization of trade unions or to collective bargaining. Wages in the cash economy were determined by market factors in accordance with the minimum wage and other laws.

The Constitution does not provide for the right to strike, and the Government has not addressed this issue. There were no strikes during the year.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits involuntary servitude, and there was no evidence of its practice among citizens of the country. Officials suspected that some forced or bonded labor existed among the illegal alien population; however, they were unable to uncover specific cases during the year.

The law does not specifically prohibit forced and bonded labor by children; however, such practices were not known to occur.

d. Status of Child Labor Practices and Minimum Age for Employment.—Children typically were not employed in the wage economy, but some assisted their families in fishing, agriculture, and other small-scale domestic enterprises. There is no law or regulation setting a minimum age for employment of children. The Government has not ratified International Labor Organization (ILO) Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work.—A government-specified minimum wage of \$2.00 for both government and private sector employees is established by law. In 1999, the government approved a lower minimum wage of \$1.50 per hour for employees at the country's tuna loining plant to encourage investment in the plant, a major employer. That minimum wage remained in effect for plant employees during the year. The minimum wage was not adequate to maintain a decent standard of living for a worker and family. However, in the subsistence economy, extended families were expected to help less fortunate members, and there were often several wage earners to support each family. The Ministry of Resources and Development oversees minimum wage regulations, and its oversight was regarded as adequate. Foreign employees and Marshallese trainees of private employers who had invested in or established a business in the country were exempt from minimum wage requirements. This exemption did not affect a significant segment of the workforce.

There is no legislation concerning maximum hours of work or occupational safety and health. On Sunday, most businesses were closed, and persons generally refrained from working.

A government labor office makes recommendations to the Nitijela on working conditions, such as the minimum wage, legal working hours and overtime payments, and occupational health and safety standards in accordance with ILO conventions. The office periodically convenes board meetings that are open to the public. No leg-

isolation specifically gives workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and no legislation protects workers who file complaints about such conditions.

The law protects foreign workers in the same manner as citizens.

f. Trafficking in Persons.—The law does not prohibit specifically trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country during the year. A series of articles in the U.S. press in 2002 alleged abusive labor situations for some Marshallese workers recruited for low-wage jobs in the United States; there were no further reports of such incidents during the year. To address such abusive recruitment practices, December revisions to the Compact of Free Association included a requirement that labor recruiters register with the Government and disclose the terms and conditions of the employment offered.

FEDERATED STATES OF MICRONESIA

The Federated States of Micronesia, administered by the United States from 1947 to 1979 pursuant to an agreement with the United Nations, is composed of four states: Chuuk (formerly Truk), Kosrae, Pohnpei, and Yap. Political legitimacy rests on the popular will expressed by a majority vote through elections in accordance with the Constitution. There are three branches of government: An executive branch led by a president who also serves as head of state; a unicameral legislature elected from the four constituent states that elects the President from among its members; and an independent judicial system that applies criminal and civil laws and procedures that closely parallel those of the United States. Elections for Congress were held in March; they were generally considered to be free and fair, and resulted in a major changeover in the government. The incumbent President and Speaker of Congress both were defeated. Senator Joseph J. Urusemal was chosen as President in May. Individual states enjoy significant autonomy and have their own constitutions and governmental systems. Traditional leaders retain considerable influence.

Under the Compact of Free Association, the United States is responsible for the country's external defense. The country has no security forces apart from national police and state public safety officers, who operated under effective civilian control. There were a few reports of human rights abuses by the police.

The economy is market based, but dominated by the large governmental sector. The population was approximately 107,000 according to the 2000 census, mostly of Micronesian origin. The economy depended heavily on financial assistance from the United States. Fishing, tourism, and subsistence agriculture, the major investment sectors, totaled only 5 percent of economic activity. Real economic growth was negative 0.1 percent during the year, after growing 0.9 percent in 2002. The real value of wages and benefits declined 1.7 percent in 2002 and again during the year.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse; however, there were problems in some areas. Traditional customs distinguish among persons on the basis of social status and sex. Neither the Government nor other social organizations have supplanted the role of the traditional extended family in protecting and supporting its citizens. There was continued evidence of spousal abuse and child neglect, and government efforts to address such problems were constrained by traditional society.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed torture; however, there were occasional reports of physical abuse by police.

Prison conditions generally met international standards; however, during the year, Pohnpei and Chuuk States' underfunded Corrections Divisions failed to provide nutritionally adequate meals to inmates. On September 5, during a raid of the state jail to search for drugs and weapons, Pohnpei State police struck one inmate and pointing loaded weapons at others, including incarcerated mentally ill patients.

Each of the four state jails includes a separate cell for female prisoners. Since women rarely were detained, these cells typically were used to separate disruptive male prisoners from the general population of detainees. There are no designated juvenile detention facilities; however, juvenile crime was rare, and the states typically have decided against incarceration of juveniles. Pretrial detainees usually were housed together with convicted prisoners. All four states used jail cells to house persons with mental illnesses but no criminal background (see Section 5).

The question of prison visits by human rights observers did not arise during the year.

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

Each state has a Department of Public Safety comprising police, corrections, fire, and emergency response functions. The directors of public safety are state cabinet-level positions. The Government has a small national police force reporting to the Department of Justice. Some municipalities also have small local police forces. In Chuuk State, political considerations influenced some police hiring, leading to an oversized and underqualified force. There were reports of police showing favoritism toward relatives and occasional reports of physical abuse by the police. Many citizens preferred to rely on customary and traditional remedies to resolve criminal and civil matters.

Laws governing arrests, warrants, access to counsel, and bail are patterned on U.S. law. All defendants have the right to counsel; however, the Public Defenders Office was underfunded, and not all defendants received adequate legal assistance in practice. Bail usually is set at low levels except in cases involving flight risk.

In 2002, national government officials attempted to serve a search warrant on the Mayor of Udot in Chuuk State. A crowd made up of the Mayor's supporters, including local police, disarmed the national officials and briefly detained them. The Mayor and the Director of Public Safety were charged, respectively, with abuse of power and obstruction of justice; court proceedings still were pending at year's end. In August, the suspended Director of Public Safety was appointed Director of Public Affairs and began collecting a state salary again.

The Constitution and law do not explicitly prohibit forced exile; however, the Government did not employ it. Punishments for crimes are set out specifically in statutes, which do not provide for the imposition of exile.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The President, with the advice and consent of the legislature, appoints the three justices of the Supreme Court. Each state also has a supreme court, and each municipality has a community court. Some states have additional courts to deal with land disputes.

The Constitution provides for public trials, and trials generally were conducted fairly. Juveniles may have closed hearings. Despite these provisions, cultural resistance to litigation and incarceration as methods of maintaining public order allowed some persons to act with impunity. Serious cases of sexual and other assault and even murder have not gone to trial, and suspects routinely were released indefinitely. Bail, even for major crimes, usually was set at low levels.

Delays in some judicial appointments and underfunding of the court system hampered the judiciary's ability to function efficiently. Shortages or unavailability of court personnel and services occasionally hampered the right to a speedy trial. One appeal of a felony conviction in Pohnpei has been pending since 2000 awaiting the finalization of the court transcript.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

The national Government and the four states maintained public information offices. There was a biweekly national newspaper, the Kaselelie Press. Yap also had a privately published weekly newspaper, the Yap Networker. Both newspapers have published politically sensitive stories.

Each of the four state governments controlled a radio station that broadcast primarily in the local language. Credible sources reported that the Chuuk State government censored politically sensitive domestic news for its public radio station. Religious groups operated private radio stations. The populations of Pohnpei, Chuuk, and Kosrae increasingly had access to live satellite-broadcast information from

around the world and tape-delayed broadcasts of programming by the major U.S. networks.

There was an increasing level of open public discussion of social and governmental issues on various Internet sites. The Internet played an important role in allowing citizens in the four states, as well as those residing outside the country, an opportunity to share views and opinions. The Government did not restrict Internet access.

The Government did not restrict academic freedom.

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

During political campaigns, citizens often questioned candidates at public meetings and social gatherings. Formal associations were uncommon, but nongovernmental organizations increased in number, including organizations for students and women.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Missionaries of many faiths worked in the country without hindrance.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for freedom of movement within the country. It does not address foreign travel, emigration, and repatriation, but in practice none of these were restricted.

The law does not include provisions for the granting of refugee status or asylum in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government has not formulated a policy regarding refugees or asylum; however, there were no reports of the forced return of persons to a country where they feared persecution. Three Vietnamese who arrived in Yap by boat in 1998 were granted temporary entry permits restricting them to Yap State only. At year's end, their status still had not been resolved. In December, the Government conducted a hearing on the matter in Yap; however, the Supreme Court issued an injunction prohibiting the Government from removing the three from the country pending further legal review of their cases.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The 14-member Congress is elected by popular vote from each state; the Congress then chooses the President and Vice President from among its 4 at-large senators by majority vote. Elections for Congress were held in March; the President and Vice President were selected in May; and the two vacated congressional seats were filled in a July by-election. The election cycle resulted in a new President and Speaker and a substantial turnover in Congress. The elections were generally free and fair; however, the national Attorney General filed charges against one election worker in Chuuk State who had withheld a ballot from a voter in the March election. The case remained pending at year's end.

State governors, state legislators, and municipal governments are elected by direct popular vote. Pohnpei held statewide elections in November and December. Political campaigning was unrestricted. There are no restrictions on the formation of political groups; however, there have been no significant efforts to form political parties, and none exist. Political support generally was sought from family and allied clan groupings, as well as religious groups.

Cultural factors in the male-dominated society limited women's representation in government and politics. Women held mid-level positions at both the federal and state level. The first woman to hold a national government cabinet-level position was appointed in 1999; she continued to serve in that capacity as Public Defender. Yap State's new governor appointed two women to his Cabinet during the year and designated one as Acting Governor for 3 weeks during his absence.

There was one woman in the Pohnpei State legislature; although the sole woman elected to that legislature in 2000 lost her bid for reelection in November, another woman won election. There were no women serving in the other state legislatures or in the national legislature.

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

There were no known requests for investigations of alleged human rights violations during the year; international human rights groups never have raised issues with the country. While there were no official restrictions, no local groups concerned themselves exclusively with human rights. However, there were groups that addressed problems concerning the rights of women and children, and the Government cooperated with these groups.

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

Although the Constitution provides explicit protection against discrimination based on race, sex, language, or religion, there was extensive societal discrimination, notably discrimination and violence against women. Government enforcement of these constitutional provisions was weak.

Women.—Reports of spousal abuse, often severe, continued during the year. There are no specific laws against domestic abuse, and there were no governmental or private facilities to shelter and support women in abusive situations. Effective prosecution of offenses was rare. In many cases, the victim decides against initiating legal charges because she is pressured by family, is fearful of further assault, or is convinced that the police will not involve themselves actively in what is seen as a private family problem. There were a number of reports of physical and sexual assaults against women outside the family context, according to police and women's groups. Such assaults were perpetrated against both citizens and foreigners. Within this traditional society, unmarried women sometimes were considered to have invited such violence by living or traveling alone.

Within the traditional extended family unit, spouses and children were accorded strong protections from violence, abuse, and neglect. Such actions were deemed offenses against the family, not just the individuals within them, and were addressed by a complex system of familial sanctions. However, with increasing urbanization and monetization of the economy, greater emphasis has been placed on the nuclear family, and the traditional methods of coping with family discord were breaking down. No government agency, including the police, has succeeded in replacing the extended family system or in addressing the problem of family violence directly. In October, the Speaker of Congress publicly called on the national legislature to deal more effectively with the problem of domestic violence.

Prostitution is not legal, nor was it a major problem. The law does not prohibit sex tourism specifically; however, the Government took steps to deny visas to potential foreign prostitutes on two occasions during the year. The law does not prohibit sexual harassment; it appeared to be pervasive, although seldom reported.

Women have equal rights under the law, and there were no institutional barriers to education and employment. Women received equal pay for equal work and were well represented in the lower and middle ranks of government. However, there was extensive societal discrimination against women. Nonetheless, women were active and increasingly successful in private business and enterprises. There was an active National Women's Advisory Council that lobbied the Government, and several small nongovernmental groups were interested in women's issues, particularly those associated with spousal and family violence and abuse.

Children.—The Government was committed to children's welfare through its programs of health care and education; however, these programs were inadequate to meet the needs of the population, particularly in an environment in which the extended family was breaking down. Health officials and religious leaders started peer support and family care groups to address the factors that may contribute to youth suicides. A number of such suicides occurred during the year, but there were no comprehensive statistics.

A compulsory education law requires all children to begin school at age 6; however, not all did so. Teacher shortages and lack of textbooks hampered progress. Education was free, and there was no difference between the education of boys and girls. Education levels differed among the states, but, on average, 75 percent of children finished 8th grade, 55 percent finished 9th grade, and 35 percent finished high school. Children may leave school when they reach the age of 14 or after completing the 8th grade, whichever comes first.

The Government administered an immunization program throughout the country and provided some vitamin supplements.

Persons with Disabilities.—The law prohibits discrimination in public service employment against persons with disabilities. Children with physical or mental disabilities were provided with special education, including instruction at home if nec-

essary. There were no reports of discrimination against persons with disabilities; however, they usually did not seek employment outside the home.

Neither laws nor regulations mandate accessibility to public buildings and services for persons with disabilities. Some private businesses provided special parking spaces and wheelchair ramps for persons with disabilities. The school system has established special education classes to address problems encountered by those with learning disabilities, although such classes were completely dependent on foreign government funding.

Some persons with mental illnesses but no criminal background were kept in jails rather than cared for in hospitals. This practice continued during the year despite major hospital renovations in all four states.

National/Racial/Ethnic Minorities.—The country is multi-ethnic, including many ethnic groups with distinct cultural and linguistic backgrounds. The Constitution prohibits noncitizens from purchasing land, and a 2002 law limits the occupations that noncitizens may fill. The national Congress grants citizenship to non-Micronesians only in rare cases (an authority that last was exercised in 1998 for the first time in almost 20 years). There is no permanent residency status. However, for the most part, noncitizens shared fully in the social and cultural life of the country.

Section 6. Worker Rights

a. The Right of Association.—Under the law, citizens have the right to form or join associations, and national government employees by law may form associations to “present their views” to the Government without coercion, discrimination, or reprisals. During the year, a group of teachers employed by Kosrae State formed such an association to protest the terms of a new contract. For a variety of reasons, including the fact that most private-sector employment was in small-scale, family-owned business and that citizens are not accustomed to collective bargaining, there were neither associations nor trade unions. The country is not a member of the International Labor Organization (ILO).

b. The Right to Organize and Bargain Collectively.—No law deals specifically with trade unions or with the right to collective bargaining. Individual employers, the largest of which are the national and state governments, set wages. There is no specific right to strike. There were no reports of strikes or collective bargaining agreements during the year.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution specifically prohibits forced or bonded labor, and there were no reports that such practices occurred. This prohibition does not mention specifically forced and bonded labor by children; however, there were no reports that such practices occurred. There were some reports of trafficking in persons (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—There is no law establishing a minimum age for employment of children. In practice, there was no employment of children for wages; however, children often assisted their families in subsistence farming activities and in family-owned shops. The Government has not ratified ILO Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work.—The four state governments have established minimum wage rates for government workers. Pohnpei has a minimum hourly wage rate of \$2.00 for government and \$1.35 for private workers. The other three states have established minimum hourly rates only for government workers: \$1.25 for Chuuk, \$1.49 for Kosrae, and \$0.80 for Yap. The minimum hourly wage for employment with the national government is \$1.68. (The U.S. dollar is the country’s legal currency.) These minimum wage structures and the wages customarily paid to skilled workers were sufficient to provide a decent standard of living for a worker and family. The minimum wage was enforced through the tax system, and this mechanism was believed to be effective.

There are no laws regulating hours of work (although a 40-hour workweek is standard practice) or prescribing standards of occupational safety and health. A federal regulation requires that employers provide a safe workplace. The Department of Health has no enforcement capability; working conditions varied in practice.

There is no law for either the public or private sector that would permit workers to remove themselves from dangerous work situations without jeopardy to their continued employment.

Yap State permitted foreign laborers to work in garment manufacturing enterprises. At the factories, the foreign laborers were paid at a lower rate than citizens, worked longer hours per day, and worked a 6-day week in contrast to the 5-day week for citizens. However, working and living conditions generally were regarded as good, and workers were not subjected to abuse or deported without cause; they

have the right to a hearing under such circumstances. Foreign workers have the right to form unions; however, they have not done so.

Working conditions on board some Taiwan- and People's Republic of China (PRC)-owned fishing vessels operating in the country's waters were very poor. Crewmen reported a high incidence of injuries, beatings by officers, and nonpayment of salary. Many crewmen did not complete their contracts as a result. In December, the PRC citizen crew of a Taiwanese vessel, complaining of beatings and non-payment of salaries, compelled the captain to take the vessel to Pohnpei. Several of the employees were dismissed and returned to the PRC.

f. Trafficking in Persons.—The law does not address specifically the subject of trafficking in persons. A series of articles in the U.S. press in 2002 alleged abusive labor situations for some Micronesian workers recruited for low-wage jobs in the United States. During the year, Congress passed legislation to regulate foreign labor recruiters as part of a strategy to control abusive recruitment practices; however, as of year's end, the Government had not promulgated implementing regulations. The amended Compact of Free Association also mandates such regulations.

There were a small number of cases in which foreign workers were enticed to come to the country illegally by fraudulent claims about working conditions, pay, and the possibility of onward migration to the United States. These cases did not involve severe forms of trafficking and exploitation. Law enforcement officials investigated these cases as well as the few allegations of sex trafficking. In February, in one such case, the authorities deported 12 Thai citizens who had paid large fees to work in the hotel industry in Pohnpei. The victims were recruited in rural Thailand and trafficked via Manila. Although the country has no antitrafficking or alien-smuggling regulations, the Government indicted the trafficking ringleader, a Thai national, on felony conspiracy charges. Local business partners were not prosecuted. In December, the Government denied extensions of stay to five PRC citizen women who were brought to the country with false promises concerning employment opportunities and conditions. The suspected trafficker left the country under pressure from the Government and was put on an immigration watchlist.

MONGOLIA

Mongolia continued its transition from a highly centralized, Communist-led state to a full-fledged, multiparty, parliamentary democracy, although these gains have not yet been consolidated. The majority party in Parliament (the State Grand Hural) nominates the Prime Minister with the agreement of the President and submits the candidate to the Parliament for approval. In 2000, the Mongolian People's Revolutionary Party (MPRP), which held power from 1921 to 1996, won a sweeping victory in the parliamentary elections, leaving only 4 of 76 seats to opposition members. In 2001, the MPRP's presidential candidate was elected to his second and constitutionally limited final term. The transition to the new Government occurred in accordance with constitutional procedures, and international observers characterized the elections as free and fair. There were 14 political parties, 4 of which held seats in the Parliament. The judiciary is constitutionally independent, but low salaries made it vulnerable to corruption. The judiciary was subject to outside influence.

Security forces are divided among the Ministry of Defense (MOD), the Ministry of Justice and Home Affairs (MOJHA), and the General Intelligence Agency (GIA). Military forces under the MOD are responsible for external security, but border security forces are under MOJHA control during peacetime. Civil defense is subordinate to the MOD, giving the MOD a role in internal security. National police, with primary responsibility for law enforcement, operate under the MOJHA. The GIA, formerly the State Security Agency, is responsible for internal security; its civilian head has ministerial status and reports directly to the Prime Minister. Twenty-two crimes fall under the GIA's purview. Reduced government spending continued to force downsizing of the military forces, and all security forces operated on a minimal budget. The security forces were under civilian control. The Minister of Defense was a civilian (who retired from the military to accept the position). Some members of the security forces committed human rights abuses.

After several years of stagnation, the economy grew at an estimated 5 percent during the year. There was also a very large and growing shadow economy not reflected in official statistics. Unemployment and underemployment remained high. The country continued to privatize state-owned entities, and the private sector produced approximately 75 percent of the gross domestic product. The country's population was 2.4 million with a population growth rate of 1.4 percent, and per capita income was approximately \$450 per year. The country relied heavily on foreign eco-

conomic assistance. The mainstays of the economy continued to be copper production, other mining activity, livestock raising, and food, wool, and hide processing industries. A growing trade and small entrepreneurial sector in the cities provided basic consumer goods. Lack of transportation and other infrastructure, legal and regulatory deficiencies, petty corruption, bureaucratic obstacles, and a small domestic market discouraged foreign investment.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Members of the police at times beat prisoners and detainees. Pretrial detention conditions continued to be poor, although there were some marginal improvements during the year. There were no deaths reported in detention centers during the year, but a number of prisoners died while in prison. Arbitrary arrest and lengthy detention were problems, as was corruption. Government attempts to enforce compliance with moral strictures and tax laws may have been an attempt to intimidate the media and may have resulted in self-censorship by the press. Harassment by some officials of religious groups seeking registration persisted. Domestic violence against women was a serious problem; however, efforts to assist victims continued to increase during the year. Child abuse and child labor also were problems. There were some instances of forced labor, and some women seeking work overseas may have become victims of trafficking schemes.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of the arbitrary or unlawful deprivations of life committed by the Government or its agents. The 1998 killing of the Minister of Infrastructure, which was suspected of being politically motivated, remained under investigation at year's end. The inability to solve this case continued to be a major problem for the Government. In November 2002, the Parliament announced a reward of \$500,000 (500 million tugriks) for tangible information about the killers.

During the year, 34 prisoners died in custody, largely due to disease (see Section 1.c.).

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices; however, while reports of such actions diminished, the police in rural areas occasionally beat prisoners and detainees, and the use of unnecessary force in the arrest process was common. In 2002, the Prison Administration equipped 11 out of 17 central prisons with television camera monitoring systems, which contributed to a significant decline in the number of prisoners and detainees beaten by guards. The Supreme Court ordered the case of five persons, who were allegedly tortured in 2000 and 2001 while in pretrial detention, re-investigated in view of questions raised concerning evidence presented at the trial by the prosecution and the absence of legal counsel for the defendants during the early months of their detention. At year's end, the results of the investigation were pending.

In recent years, reforms have changed significantly the way that accused persons and prisoners are treated. In 2001, a human rights training center for prison management and some police guards was implemented. During the year, 180 prison guards received training at the center. The Ministry's Department for the Enforcement of Court Decisions also monitored conditions, but new laws and procedures were not publicized widely, especially in the countryside, and citizens were not always aware of their rights with respect to detention and arrest. In general, pretrial detention and prison facilities were poor, providing insufficient food, heat, and medical care, thereby threatening the health and life of inmates. Overcrowding declined in prisons but remained common in detention centers.

Many inmates entered prison already infected with tuberculosis or contracted it in prison. The Government's tuberculosis hospital provided treatment for a large number of prisoners and better isolated infected persons from the general prison population. The number of inmates who died of the disease continued to decline significantly.

The Prison Administration assumed responsibility for detention centers in September 2002. Although conditions remained poor, the Prison Administration continued to address overcrowding; provided improved food, including warm meals twice, rather than just once, per day, and clothing and hygienic items.

Although the number of inmates remained fairly constant, the seriousness of crimes allegedly committed by those detained increased.

Under the continuing reform process, prison inmates in the capital were divided into smaller groups managed by trained personnel and provided health and hygiene

instructions. There is a separate facility for juvenile prisoners in Ulaanbaatar, which is designated a training center. At year's end, there were 127 children in the facility. Outside of Ulaanbaatar, juveniles between the ages of 14 and 18 who were charged with crimes were kept in the same detention centers as adults, unsegregated from the adult population. Improvements in detention and prison conditions outside of the capital were minimal or nonexistent due to lack of funding. However, families gained better access to inmates, alleviating some of the hardship in obtaining food and clothing. At least two domestic and six foreign nongovernmental organizations (NGOs) worked to improve conditions in prisons and detention centers, distributing clothing, food, books, and textbooks, and providing English-language instruction and training in computers and trades. All female prisoners were held separately in one central prison in Ulaanbaatar. At year's end, the prisoner population of that facility was 247. In detention centers inside and outside the capital, women are held separately from men.

The Government permitted prison visits by human rights monitors, foreign diplomats, and journalists. Amnesty International, The U.N. Development Program's (UNDP) human rights monitor, diplomatic representatives, local journalists, and other observers have visited detention centers as well as prisons.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution provides that no person shall be searched, arrested, detained, or deprived of liberty except by law, and these protections have been incorporated into the Criminal Code; however, arbitrary arrest and detention remained problems. General public awareness of basic rights and judicial procedures, including their rights in regard to arrest and detention procedures, was limited. Police may arrest those suspected of a crime and hold them for up to 72 hours before a decision is made to prosecute or release. Under the revised Criminal Code, which came into effect in September 2002, a court order must be requested to continue holding a suspect after 24 hours have elapsed. If the requested order is not granted within 72 hours, the suspect must be released. In addition, prosecutors no longer have authority to issue warrants. A detainee has the right to a defense attorney during this period and during all subsequent stages of the legal process. If a defendant cannot afford a private attorney, the Government must appoint an attorney. However, in practice, many detainees were not made aware of and therefore did not assert this right. There was a shortage of state attorneys, and the low quality of attorney training and the bureaucratic obstacles faced by attorneys and defendants were chronic problems. Detainees may be released on bail with the agreement of the prosecutor. The maximum pretrial detention (with a court order) is 24 months; an additional 6 months are allowed for particularly serious crimes such as murder. According to administrative regulation, if a person is wrongly charged with a crime, the Government must restore the person's rights and reputation and compensate him, but this regulation very rarely was followed in practice.

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

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the courts were generally independent in practice, although corruption was a problem.

The judiciary consists of local courts, provincial courts, and the Supreme Court. The 11-member Supreme Court is the court of final appeal, hearing appeals from lower courts and cases involving alleged misconduct by high-level officials. Local courts primarily hear routine criminal and civil cases; provincial courts hear more serious cases, such as murder, rape, and grand larceny, and also serve as the appeals court for lower court decisions. The Constitutional Court, separate from the criminal court system, has sole jurisdiction over constitutional questions. The General Council of Courts, an administrative body within the Ministry of Justice and Home Affairs, nominates candidates for vacancies on both the Supreme and lower courts; the President has the power to approve or refuse such nominations. The Council also is charged with protecting the rights of judges and providing for the independence of the judiciary. A human rights course is mandatory for all law students.

According to law, all accused persons have the right to due process, legal defense, and a public trial, although closed proceedings are permitted in cases involving state secrets, rape cases involving minors, and other cases provided by law. Defendants do not enjoy a presumption of innocence. Defendants may question witnesses and appeal decisions.

There were no reports of political prisoners. Each September, the Government publicly pays respect to the memory of victims of the political repression from 1922 through the 1960s. Since 1991, of approximately 36,000 people who were repressed, 28,560 have been absolved of accusations leveled against them. The Government has

provided approximately 500 apartments and gers (a traditional nomadic dwelling of the Mongols) to surviving victims or the victims' spouses. In addition, the State Rehabilitation Commission has provided compensation to other family members of victims in the form of cash grants of \$500 and \$1,000 (500,000 and 1 million tugrik). The program was halted temporarily due to a budget shortfall in 2001 but resumed in 2002. Since 1991, approximately 16,000 persons have received more than \$14 million (14 billion tugrik) in compensation. The program, originally scheduled to end in 2000, was extended to February 2006.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these provisions in practice. The head of the General Intelligence Agency, with the knowledge and consent of the Prime Minister, may direct the monitoring and recording of telephone conversations. The extent of such monitoring was unknown. Police wiretaps must be approved by the Prosecutor's Office and are authorized for 2 weeks at a time.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech, press, and expression, and the Government generally respected these rights in practice. However, cultural shows and other performances sponsored by candidates and their supporters were prohibited during the election campaign period except at its start and end.

An increasing variety of newspapers and other publications represented major political party viewpoints as well as independent views. The 1999 media law bans censorship of public information and future legislation that would limit the freedom to publish and broadcast. This law also bars state ownership or financing of the media or media organizations. Nonetheless, the vast majority of radio and television stations and frequency licenses remained state-owned. The law took effect without agreement on regulations and procedures for the privatization of assets, and its implementation has been difficult and controversial. Lack of access to information and of transparency in government continued to inhibit political dialog in the media and led to media complaints.

The Government monitored all media for compliance with anti-violence, anti-pornography, anti-alcohol, and tax laws. In July 2002, an Ulaanbaatar Court found the editor-in-chief of Word newspaper guilty of libel and sentenced her to 1 year in prison. She was released in January, after completing a reduced sentence of 6 months. Journalists accused the Government of overzealous prosecution of the case and believed the trial was an assault on freedom of the press. While there was no direct government censorship, the press alleged indirect censorship in the form of government harassment such as frequent libel lawsuits and tax audits. The law places the burden of proof on the defendants in libel and slander cases. As a result, some media practiced self-censorship, although independent media outlets were at times strongly critical of the Government. All newspapers bought newsprint directly from private suppliers, and neither party-affiliated nor independent news media reported difficulty securing an adequate supply. Due to transportation difficulties, uneven postal service, and fluctuations in the amount of newsprint available, access to a full range of publications was restricted in outlying regions.

There were several television stations, including a government-financed and -owned television station with countrywide broadcasting capability, seven private television stations (which do not broadcast nationwide), and a local television station controlled by the Ulaanbaatar mayor's office. An estimated 70 percent of households had television. Ulaanbaatar residents received broadcasts from other countries in Asia, Europe, and North America, including China, Russia, Japan, the United Kingdom, France, Germany, and the United States, by commercial satellite and cable television systems.

State-owned radio was important as the major source of news in the countryside; however, one independent radio station broadcast widely and there were an increasing number of small local FM stations. The Voice of America and the British Broadcasting Company broadcast in English only, over FM radio frequencies leased from private media interests. The media presented both opposition and government views.

Access to the Internet was available, and the Government did not interfere with its use.

The Government did not restrict academic freedom.

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

c. Freedom of Religion.—The Constitution provides for freedom of conscience and religion, and the Government generally respected these rights in practice; however, the law limits proselytizing, and some groups that sought to register faced bureaucratic harassment.

The Constitution explicitly recognizes the separation of church and state. However, although there is no official state religion, traditionalists believe that Buddhism is the “natural religion” of the country. The Government contributed to the restoration of several Buddhist sites that are important religious, historical, and cultural centers. The Government otherwise did not subsidize the Buddhist religion.

Religious groups must register with the Ministry of Justice and Home Affairs. However, the registration process is decentralized with several layers of bureaucracy, in which officials sometimes demanded financial benefits in exchange for authorization. Local assemblies have the authority to approve applications at the local level. In general, it appeared that difficulties in registering were primarily the consequence of bureaucratic action by local officials and attempts to extort financial assistance for projects not publicly funded. Of the 260 temples, churches, and mosques founded since 1990, approximately 239 were registered, including 151 Buddhist, 74 Protestant, 2 Catholic, 5 Baha’i, 4 Muslim, and 3 other denominations. Contacts with coreligionists outside the country were allowed. During the year, the Catholic Church named its first Bishop in the country.

Under the law, the Government may supervise and limit the number of places of worship and clergy for organized religions; however, there were no reports that the Government did so during the year.

The law does not prohibit proselytizing, but forbids the use of incentives, pressure, or “deceptive methods” to introduce religion. In addition, a Ministry of Education directive bans mixing foreign language or other training with religious instruction. The edict was enforced, particularly in the capital area.

The Dalai Lama, a Tibetan Buddhist leader greatly respected by Mongolian Buddhists, visited the country in November 2002, after a series of previous attempts to arrange such a visit failed. The Government actively worked with a number of countries in the region to ensure that the visit of this important religious leader could occur.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for freedom of movement within the country as well as the right to travel abroad and return without restriction, and the Government generally respected these rights in practice. However, due to continued harsh winter weather and drought conditions, an increased number of persons sought shelter in the capital, and the authorities continued to raise bureaucratic obstacles, such as increasing fees for residency applications, to prevent new arrivals from qualifying for residency and social benefits in the capital. Ulaanbaatar was the only city that required registration fees for those moving into the city from other areas. During the year, the Chingeltei District Court declared these fees illegal, and the city stopped collecting them on October 1.

The country is not a party to the 1951 U.N. Convention Regarding the Status of Refugees and its 1967 Protocol, and it has no laws for granting refugee status. In practice, the Government provided protection against refoulement but did not routinely grant refugee or asylum status. The Government continued talks with U.N. High Commissioner for Refugees (UNHCR) representatives on refugee and asylum issues.

Small groups of North Koreans continued to enter the country from China. The Government’s concerns about potentially growing numbers of North Korean migrants increased opposition to accession to the 1951 Convention.

The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees. However, in recent years, the authorities have denied entry to some persons claiming refugee status, having determined that these persons were “economic immigrants” and not refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution limits the President to two 4-year terms. Presidential, parliamentary, and local elections were held separately.

In 2000, parliamentary elections brought the MPRP back into power. In 2001, the MPRP’s presidential candidate was elected to a second term. International observers

deemed the presidential election generally free and fair; some irregularities in the 2000 parliamentary elections generated improved election practices and procedures in the 2001 presidential election. New rules were introduced requiring two to three observers to be present with election commission representatives when votes are collected by mobile box (a ballot box circulated among rural households); however, no state funds were provided for the observers to accompany the election commission representatives, and corruption remained a problem in some remote areas. Ballot papers were printed and distributed under the strict control of political party observers. Cultural shows and other performances sponsored by candidates and their supporters were prohibited during the election campaign period except at its start and end. The Constitution provides that the Prime Minister, in consultation with the President, shall submit proposals of the executive branch to the Parliament, and Members of Parliament may serve in the Government (as Cabinet Ministers).

There were 14 registered political parties; 4 were represented in the Parliament.

There were no legal impediments to the participation of women or minorities in government and politics. There were 9 female members in the 76-member Parliament. There were no female ministers, but there was one female vice-minister. Women and women's organizations were vocal in local and national politics and actively sought greater representation by women in government policymaking.

There were three members of the ethnic Kazakh minority group serving in the 76-member Parliament

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

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

Under the direction of the UNDP, a local representative in each provincial assembly, among other duties, monitored human rights conditions.

In 2001, Parliament established the NCHR consisting of three senior civil servants nominated by the President, the Supreme Court, and the Parliament for terms of 6 years. The NCHR was responsible for monitoring human rights abuses, initiating and reviewing policy changes, and coordinating with human rights NGOs. The NCHR reports directly to the Parliament. In its 2003 report, as in its 2001 and 2002 reports, the NCHR criticized the Government for abuses of the power of arrest and detention, poor conditions in detention and prison facilities, lengthy detentions without trial, and failure to implement laws. The reports also faulted Parliament and the courts for failure to protect fully human rights.

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

The Constitution states that "no person shall be discriminated against on the basis of ethnic origin, language, race, age, sex, social origin, or status" and that "men and women shall be equal in political, economic, social, cultural fields, and family." The Government generally enforced these provisions in practice. There was no official discrimination against those with HIV/AIDS; however, some social discrimination existed.

Women.—Domestic violence against women was a serious problem. Rape and domestic abuse are illegal, and offenders can be prosecuted after formal charges have been filed. There is no law specifically prohibiting spousal rape.

There were no reliable statistics regarding the extent of domestic abuse but qualified observers believed that it was common, affecting as much as one-third of the female population. Approximately 98.5 percent of those who committed violent crimes in the home were male, and women were disproportionately the victims of these crimes. Further, in recent years, domestic abuse appeared to become more violent; different statistical sources stated that between 10 and 24 percent of murders occurred in the home. In 1998, murders of women were 8 percent of all murder cases; in 2001, the number had doubled to 17 percent. After many years of government and societal denial, there was increasing public and media discussion of domestic violence, including spousal and child abuse. However, a common perception was that domestic abuse was either a family issue or not a problem at all. The large economic and societal changes underway have created new stresses on families, including loss of jobs, inflation, and lowered spending on social and educational programs. Some statistics showed that more than 60 percent of the cases of family abuse were related to alcohol abuse. The high rate of alcohol abuse contributed to increased instances of family abuse and abandonment and added to the number of single-parent families, most of which were headed by women. Although women's groups advocated new statutes to cope with domestic violence, there was no known

police or government intervention in cases involving violence against women beyond prosecution under existing criminal laws after formal charges were filed. Women were hesitant to prosecute because of likely long-term detention of spouses in detention centers and the resulting loss of household income.

Rape, including spousal rape, was a problem. During the year, the number of reported cases increased nearly 5 percent.

Prostitution is illegal, and it was not a problem.

There were reports that some women and teenagers worked in the sex trade in Asia and Eastern Europe; an unknown number of them may have been trafficked (see Section 6.f.).

There are no laws against sexual harassment.

The Family Law details rights and responsibilities regarding alimony and parents' rights, and is intended to bring about timely dispute settlement and ameliorate the causes of some domestic violence. The National Center Against Violence operated branches, each staffed by two to three persons, in two districts of Ulaanbataar and eight provinces. Only one small shelter for victims of domestic abuse existed in the country, largely funded by foreign charitable organizations.

The law stipulates the obligations regarding divorce, custody, and alimony for the parent caring for children. It provides for more speedy resolution of divorce cases when the relevant agencies have determined that domestic violence is involved.

The Constitution provides men and women with equal rights in all areas. By law, women are to receive equal pay for equal work and have equal access to education. Women represented approximately half of the work force, and a significant number were the primary earners for their families. The law prohibits women from working in certain occupations that require heavy labor or exposure to chemicals that could affect infant and maternal health. The Government enforced these provisions. Many women occupied midlevel positions in government and the professions, and many were involved in the creation and management of new trading and manufacturing businesses.

There is no separate government agency that oversees women's rights; however, there is a national council to coordinate policy and women's interests among ministries and NGOs, and the Ministry of Social Welfare and Labor has a Division for Women and Youth Issues. There were approximately 40 women's rights groups that concerned themselves with such issues as maternal and child health, domestic violence, and equal opportunity.

Children.—Increased stress on the family structure and throughout society has had adverse effects on many children, and the Government has been unable to keep pace with the educational, health, and social needs of this most rapidly growing segment of its population, although it is committed to children's rights and welfare in principle. The Government provides children with free and, by law, compulsory public education through the age of 16; however, family economic needs and state budgetary difficulties made it difficult for some children to attend school. In practice, female children over the age of 15 had better opportunities to complete their education than male children, because teenage males often were required to work at home and schools generally were located far from homes (see Section 6.d.). In addition, there continued to be a severe shortage of teachers and teaching materials at all educational levels.

The society has a long tradition of supporting communal raising of children. The Government was more willing than in the past to admit the extent of the problem of orphaned children, but it lacked the resources to improve the welfare of children who have become the victims of larger societal and familial changes. NGOs continued to assist orphaned and abandoned children. The Government does not publish statistics on street children; however, the 2002 census identified approximately 1,300 homeless youths between 7 and 18 years of age. Of those, 840 lived in shelters provided by 21 children's centers sponsored by international NGOs. Groups working in the field disagreed on the number of street children but estimated that there were as many as 3,000. Female street children, who accounted for one third of all street children, sometimes faced sexual abuse. The Government established the National Committee for Children to address this and other child welfare issues. The Government supported two government-funded but privately owned and administered shelters, one for children from birth to age 3, and the other for children from 3 to 16 years of age. While government facilities received government funding, finances were inadequate, and the Government used foreign aid to help sustain the orphanages.

There was growing awareness that child abuse, often associated with parental alcoholism, was a problem. In conjunction with efforts to counter violence against women, NGOs have begun to address the issue. The Ministry of Social Welfare and Labor added a Department for Women and Youth Issues.

Persons with Disabilities.—The Labor Law prohibits discrimination against persons with disabilities in employment and education, and requires the Government to provide benefits according to the nature and severity of the disability, which it did. There was no official discrimination against persons with disabilities in employment and education. However, in practice, most could not find jobs. The Labor Law requires companies employing more than 50 persons to hire at least 3 persons with disabilities. Those who have been injured in industrial accidents have the right to reemployment when ready to resume work, and the Government offered free retraining at a central technical school. There are several specialized schools for youths with disabilities, but these students also were free to attend regular schools. The Government also provided tax benefits to enterprises that hired persons with disabilities, whom some firms hired exclusively. There is no law mandating access for the persons with disabilities; thus, it was difficult for the persons with disabilities to participate fully in public life. However, in 2001, the Government allocated a small sum to build wheelchair access ramps to public buildings. Groups of persons with disabilities have demonstrated for higher government subsidies. Government pensions for persons with disabilities were approximately \$40 (40,000 tugrik) per month. Approximately 30 NGOs participated in activities assisting the approximately 40,000 persons with disabilities in the country.

Section 6. Worker Rights

a. The Right of Association.—The Constitution entitles all workers to form or join unions and professional organizations of their choosing. Union officials estimated that union membership remained constant at approximately 400,000, which represented less than half of the workforce. Workers who were self-employed or worked at small firms generally did not belong to unions. No arbitrary restrictions limited who could be a union official, and officers were elected by secret ballot.

During the year, the leadership of the newer Association of Free Trades Unions merged with the Mongolian Trade Unions Confederation, leaving, in effect, only one trade union confederation in the country.

The Mongolian Trade Unions Confederation had ties with international labor organizations and confederations in other countries.

b. The Right to Organize and Bargain Collectively.—The law regulates relations between employers, employees, trade unions, and the Government. The Government's role is limited to ensuring that contracts meet legal requirements concerning hours and conditions of work. Wages and other conditions of employment are set between employers, whether state or private, and employees, with trade union input in some cases. The Labor Dispute Settlement Commission resolves disputes involving an individual; disputes involving groups are referred to intermediaries and arbitrators for reconciliation. If an employer fails to comply with a recommendation, employees may exercise their right to strike. The law protects workers' right to participate in trade union activities without discrimination.

Union members have the right to strike; however, those employed in "essential services," which the Government defines as occupations critical for national defense and safety, including police, utility, and transportation workers, do not have the right to strike. During the year, there were approximately 8 strikes involving over 1,000 workers.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The law specifically prohibits forced or bonded labor, including forced and bonded labor by children; however, enforcement was irregular. Some members of the military forces in rural areas were required to help with the fall harvest. In many cases, prisoners worked to support the detention facility or prison in which they were held, and detained alcohol abusers and petty criminals sometimes were required, as part of their sentences, to perform menial tasks such as street sweeping. Detainees were compensated financially for their work; prisoners were not but received credit toward time off of their sentences.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law in general prohibits children under the age of 16 from working, although those who are 14 or 15 years of age may work up to 30 hours per week with parental consent. Those under 18 years of age may not work at night, engage in arduous work, or work in hazardous occupations such as mining and construction. Enforcement of these prohibitions, as well as all other labor regulations, was the responsibility of state labor inspectors assigned to regional and local offices. These inspectors have the authority to compel immediate compliance with labor legislation, but enforcement was limited due to the small number of labor inspectors and the growing number of independent enterprises.

Children worked informally in petty trade, scavenging in dumpsites, scavenging coal from abandoned mines, and herding animals. Increasing alcoholism and parental abandonment made it necessary for many children to have an income to support themselves, their siblings, and sometimes their parents. Estimates placed the number of children in the labor force as high as 58,000.

Also, due to increasing economic pressures, fewer children, especially teenage boys in the countryside, were staying in school until age 18 (see Section 5). These children most often herded family animals, but reports of such children working in factories or coalmines increased.

The Government prohibits forced and bonded labor by children and generally attempted to enforce this prohibition. However, forced labor by children existed.

The International Labor Organization has a national office for the International Program on the Elimination of Child Labor in the country.

e. Acceptable Conditions of Work.—The legal minimum wage established for the year was under \$30 (30,000 tugrik) per month. This minimum wage, which applied to both public and private sector workers and was enforced by the Ministry of Social Welfare and Labor, was insufficient to provide a decent standard of living for a worker and family. Virtually all civil servants earned more than this amount, and many in private businesses earned considerably more. Some employees received housing benefits.

The standard legal workweek is 40 hours, and there is a minimum rest period of 48 hours between workweeks. By law, overtime work is compensated at either double the standard hourly rate or by giving time off equal to the number of hours of overtime worked. Pregnant women and nursing mothers are prohibited by law from working overtime. For those 16 and 17 years of age, the workweek is 36 hours, and overtime work is not allowed. These laws were generally enforced in practice.

Laws on labor, cooperatives, and enterprises set occupational health and safety standards. However, the near-total reliance on outmoded machinery and problems with maintenance and management led to frequent industrial accidents, particularly in the mining, power, and construction sectors. Ministry of Social Welfare and Labor enforcement of occupational health and safety standards was inadequate. The labor-monitoring unit employed only 73 inspectors to inspect a growing number of enterprises throughout the country. According to the law, workers have the right to remove themselves from dangerous work situations and still retain their jobs. There were a small number of foreign workers in the country who, in general, enjoyed the same protections as citizens.

f. Trafficking in Persons.—The law specifically prohibits trafficking in women and children; however, there was evidence that Mongolian women and teenagers working in the sex trade in Asia and Eastern Europe may have been the victims of trafficking rings. The country was both a source and transit point for trafficking. Although most officials and NGOs found it difficult to estimate the extent of the trafficking, increasing attention was focused on the issue.

The primary targets of trafficking schemes were middle class girls and young women, ranging in age from 14 to approximately 28 years of age. These girls and women were lured abroad by offers to study or work. It was not difficult to traffic persons across the country's borders. Some NGO experts believed that members of the police sometimes were involved in trafficking young women and helping facilitate their movement across borders. During the year, an NGO and the Ministry of Justice provided training and education on trafficking to police officials.

NAURU

The Republic of Nauru adopted a modified form of parliamentary democracy on gaining independence in 1968. The country is governed by a unicameral Parliament. The Parliament is elected at least triennially and consists of 18 members from 14 constituencies. It elects the President, who is both chief of state and head of government, from among its members. The most recent parliamentary elections, held in May, were considered free and fair. The presidency changed five times during the year. In May, Parliament elected a new president, Ludwig Scotty, but he was replaced in August by Rene Harris after three members of Parliament changed alliances. The judiciary is independent.

There are no armed forces, although there is a small police force, with fewer than 100 members, under civilian control. There were no reports that security forces committed human rights abuses.

The population was approximately 12,000. The economy depended almost entirely on mining of dwindling phosphate deposits. The government-owned Nauru Phos-

phate Corporation (NPC) controlled the mining industry, and a large percentage of its earnings were placed in long-term investments meant to provide national revenue after the phosphate reserves were exhausted. However, financial mismanagement and corruption led to severe and chronic shortages of basic goods and utilities and some domestic unrest. In February, in response to international money laundering concerns, the Government announced that it would close its offshore banking operations, suspend its investor passport program, and update its banking laws and financial sector legislation. However, none of these actions had been completed by year's end.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. However, some human rights advocates continued to express concerns about poor living conditions and alleged arbitrary detention of asylum seekers held in the country since 2001. The country has a refugee processing and detention center, funded by the Government of Australia, that held approximately 300 asylum seekers at year's end, down from 700 at the end of 2002. Most were intercepted at sea en route to Australia; Australian immigration officials continued to process their asylum claims in coordination with the U.N. High Commissioner for Refugees (UNHCR). On December 10, 33 of the detained refugees began a hunger strike, which had not been resolved by year's end.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and there were no reports that government officials employed them.

The Government attempted to meet international prison standards within its limited financial means and in accordance with local living standards; however, prison conditions were basic, and food and sanitation were limited. There were separate accommodations for pretrial detainees and convicted prisoners, for men and women, and for adults and juveniles.

The country hosted a refugee processing and detention center, funded by the Government of Australia, that held approximately 300 asylum seekers at year's end. Most of the detainees were citizens of Afghanistan, Pakistan, and other South Asian countries; were intercepted at sea en route to Australia in 2001; and sought resettlement in Australia or another developed country. Australian human rights organizations expressed concern about conditions at the detention center, including problems with the water quality and the power supply. However, water quality and power supply problems were common in the country as a whole. During the year, Amnesty International and other Australia-based human rights groups protested that journalists, human rights activists, doctors, lawyers, and clergy members were denied visas to visit asylum seekers held in the detention center. On December 10, 33 of the detained refugees began a hunger strike, which had not been resolved by year's end.

There were no local human rights groups, and the question of visits to local prisons by human rights observers was not raised. Prison visits by church groups and family members were permitted.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The police may hold a person for no more than 24 hours without a hearing before a magistrate.

In 2002, the Australia-based Catholic Commission for Justice, Development, and Peace asserted that the detention of asylum seekers in the country was not being handled in accordance with the Constitution, since these individuals had been detained without first being brought before a court for a hearing. The court system reportedly took up the issue during the year; however, no decision was announced by year's end.

The Constitution and law do not prohibit forced exile; however, the Government did not use it.

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

The Supreme Court is the highest court when addressing constitutional issues; it is presided over by the Chief Justice. The Appellate Court, composed of two judges,

hears appeals of Supreme Court decisions on other matters. Parliament cannot overturn court decisions. Under the Appeals Act, cases may be reviewed by the High Court of Australia on Criminal and Civil Actions, but this rarely was done. A Resident Magistrate, who is also the Registrar of the Supreme Court, presides over the District Court. The Resident Magistrate also presides over the Family Court as Chairman of a three-member panel. There are two other quasi-courts established under the Constitution, the Public Service Appeal Board and the Police Appeal Board. The Chief Justice presides over both as chairman, with two members for each board.

Defendants may have legal counsel, and a representative for the defense is appointed when required "in the interest of justice." However, traditional reconciliation mechanisms rather than the formal legal process were used in many cases—usually by choice but sometimes under communal rather than governmental pressure. Contract workers from Kiribati and Tuvalu working in the mining sector did not have recourse to effective communal assistance and were disadvantaged in complaints against citizens. There were only three trained lawyers in the country, and many persons were represented in court by "pleaders," trained paralegals certified by the Government (see Sections 6.a. and 6.b.).

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press, including academic freedom.

The country had no regular print media. Occasional publications included the government bulletin. In addition, *The Visionary*, a newsletter published sporadically by the opposition party Naoero Amo, provided an independent and critical view of the Government. It was particularly vocal regarding economic crises during the year. In December 2001, Presidential Counsel David Adeang and Senior Medical Officer Dr. Kieren Keke (both members of Naoero Amo) were suspended from and later resigned their government positions following publication in *The Visionary* of their comments criticizing the Government's policy toward asylum seekers. In May, Adeang and Keke were elected to Parliament and were briefly appointed as Ministers, until the defection of coalition members forced them into the opposition in August. The sole radio station was owned and operated by the Government; it broadcasted Radio Australia and British Broadcasting Corporation news reports. Local television included government-owned Nauru TV, as well as a privately owned sports network.

The Government was the sole Internet service provider in the country, but did not monitor or censor content.

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

c. Freedom of Religion.—The Constitution provides for freedom of religion; however, the Government restricted this right in some cases. In recent years, the Government has prevented Mormons and members of Jehovah's Witnesses from practicing their religion freely on some occasions, and members of these religions were subjected to arbitrary licensing and immigration requirements.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the Government generally respected them in practice.

Foreign workers were required to apply to their employers for permission to leave during the period of their contracts. They could break the contract and leave without permission but would lose their positions and often a sizable bond as a result. In most cases, foreign employees whose contracts were terminated by their employers had to leave the country within 60 days.

The Government has not formulated a formal policy regarding refugees, asylees, or temporary protection. However, the Government cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees. The country has accommodated asylum seekers as a processing center for Australia. These asy-

lum seekers were held in facilities funded by the Government of Australia, with day-to-day supervision provided by officials of the International Office on Migration and local authorities. At year's end, some asylum seekers had been resettled, primarily in Australia and New Zealand; however, approximately 300 remained in detention, down from 700 at the end of 2002. Most of this population had been denied refugee status but not yet repatriated. None had requested resettlement in Nauru. In 2002, the UNHCR asked the Government to reconsider its denial of admission to the bar for several Australian lawyers offering legal assistance to detained asylum seekers. The Government reportedly had suggested that asylum seekers instead retain local counsel. During the year, the Government continued to deny admission to the Australian lawyers.

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

The Constitution provides citizens the right to change their government peacefully. The Government also can be changed through a petition from the members of Parliament. Although the country's politics is based more on clan than party membership, persons with diverse points of view have been elected to Parliament.

Parliament elects the President. In a year marked by political uncertainty, there were five changes in government. Following general elections in May, Ludwig Scotty was elected President by Parliament, after the reformist party Naoero Amo won enough seats to form a coalition government. In August, Scotty was replaced by President Rene Harris, following the defection of three members of the coalition to the opposition.

During the country's history, all changes in government have been peaceful and in accordance with the Constitution. In parliamentary elections, voting by secret ballot is compulsory for all citizens over the age of 20. There were multiple candidates for all parliamentary seats in the elections held during the year.

There are no legal impediments to participation in politics by women. In the past, the dominance of traditional clans in national politics limited participation by women, and there were no female members of parliament. However, there was growing participation by women in party-based politics, and women held many senior civil service positions, including Permanent Secretary and Cabinet Secretary-level jobs.

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

There were no restrictions on establishing local groups that concern themselves specifically with human rights, but no groups have been formed. The Catholic Commission for Justice, Development, and Peace raised concerns about alleged arbitrary detention of asylum seekers, asserting that the detainees were not being processed in accordance with the Constitution (see Section 1.d.).

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

The law prohibits discrimination on the basis of race, sex, disability, language, or social status, and the Government observed these provisions.

Women.—The Government did not keep track of incidents of physical and domestic abuse against women. However, credible reports indicated that sporadic abuse, often aggravated by alcohol use, occurred. Families normally sought to reconcile such problems informally, and, if necessary, communally. The judiciary and the Government treated major incidents and unresolved family disputes seriously.

Spousal rape is not a crime, but police will prosecute charges of rape leveled against a spouse. Prostitution is illegal and not widespread. Sexual harassment is a crime, and it was not a serious problem.

The law grants women the same freedoms and protections as men. The Government officially provided equal opportunities in education and employment, and women were free to own property and pursue private interests. However, in practice societal pressures limited opportunities for women to fully exercise these rights. There was a Women's Affairs Office to promote professional opportunities for women.

Children.—The Government devoted adequate resources for education and health care for children. Education was compulsory until age 16. Child abuse statistics did not exist, but alcohol abuse sometimes led to child neglect or abuse. There were no reported cases of child abuse or child prostitution during the year.

Persons with Disabilities.—There was no reported discrimination in employment, education, and the provision of state services to persons with disabilities. However, no legislation mandated access to public buildings and services for persons with dis-

abilities. Persons who applied to the Health Department could obtain government assistance in building access ramps to homes and workplaces.

There are no formal mechanisms to protect persons with mental disabilities; however, the Government at times provided essential services to the families of such persons.

National/Racial/Ethnic Minorities.—Nonnative Pacific Island workers experienced some discrimination. While foreign workers were provided free housing, the shelters were often poorly maintained and overcrowded. In the past, some foreign workers alleged that the police rarely acted on their complaints against citizens (see Section 6.e.).

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right of citizens to form and belong to trade unions or other associations. However, the country has virtually no labor laws, and there were no trade unions. Past efforts to form unions were discouraged officially. The transient nature of the mostly foreign work force also hampered efforts to organize the labor force. There were no prohibitions or limits on the right of unions to affiliate with international bodies.

b. The Right to Organize and Bargain Collectively.—While there were no legal impediments, collective bargaining did not take place. The private sector employed only approximately 1 percent of salaried workers. For government workers, public service regulations determined salaries, working hours, vacation periods, and other employment matters.

The right to strike is neither protected, prohibited, nor limited by law. Workers of the government-owned Nauru Phosphate Company (NPC), the country's largest employer, went on strike in August. The strike ended after approximately 3 weeks when the company agreed to pay the full 6 months' back wages. However, the wages had not been paid in full by year's end.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution forbids forced or bonded labor, including by children, and the Government effectively enforced these prohibitions.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law sets age 17 as the minimum age of employment. The only two large employers, the Government and the NPC, honored this rule. Some children under the age of 17 worked in small, family-owned businesses.

The country is not a member of the International Labor Organization (ILO) and has not ratified ILO Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work.—Minimum wage rates for office workers and manual laborers provided an adequate, if modest, standard of living for a worker and family. However, due to the Government's near-permanent lack of funds during the year, public service salaries often went unpaid, often for months at a time. Most families lived in simple but adequate housing, and almost every family owned some sort of motor vehicle. The Government set the minimum yearly wage administratively for the public sector. Since 1992, that rate has been \$6,562 (\$A9,056) for those 21 years of age or older. The rate is progressively lower for those under 21 years of age. Employers determined wages for foreign contract workers based on market conditions and the consumer price index. Usually foreign workers and their families received free housing, utilities, medical treatment, and often a food allowance. Some noncitizen contract workers complained about conditions in company living compounds. By regulation, the workweek for office workers was 36 hours and, for manual laborers, 40 hours in both the public and private sectors. Neither law nor regulations stipulated a weekly rest period; however, most workers observed Saturdays and Sundays as holidays.

The Government sets health and safety standards. The NPC had an active safety program that included an emphasis on worker education and the use of safety equipment such as helmets, safety shoes, and dust respirators. The NPC had a safety officer specifically responsible for improving safety standards and compliance throughout the company.

f. Trafficking in Persons.—The law does not specifically prohibit trafficking; however, there were no reports that persons were trafficked to, from, or within the country.

NEW ZEALAND

New Zealand is a parliamentary democracy, with executive authority vested in a 20-member cabinet led by the Prime Minister. Queen Elizabeth II is Chief of State and is represented by the Governor General. The 120-member Parliament is elected in a mixed-member proportional representation system, with 7 seats reserved for members of the native Maori population. Citizens periodically choose their representatives in free and fair multiparty elections. The most recent elections were held in July 2002. The Labor Party won 52 parliamentary seats and, following the election, formed a minority coalition government with the Progressive Coalition Party, with support from the centrist United Future Party. The judiciary is independent.

The Minister of Police oversees the national police. The civilian authorities maintained effective control of the security forces. There were some complaints that individual members of the police committed human rights abuses.

The country has a market-based, mixed economy. As of December, the population was approximately 4 million. Gross Domestic Product grew 4.4 percent during the March 2002-March fiscal year. Wages kept ahead of inflation, with wages increasing 3.1 percent and inflation 1.5 percent in the first 9 months of the year. A net gain in immigration, rising housing prices, and strong consumer spending outweighed the negative effects of an appreciating exchange rate that hurt the trade sector. Government social programs offered substantial benefits to disadvantaged persons.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. There were some complaints of police abuses and of violence against women and children; societal discrimination against persons with disabilities, indigenous people, Pacific Islanders, and Asians was a problem. The Government generally respected the human rights of citizens living in its territories of Tokelau, Niue, and the Cook Islands.

RESPECT FOR HUMAN RIGHTS

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

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

The Independent Police Complaints Authority handles complaints of police abuse, ranging from use of abusive language to allegations of complicity in deaths. During the 12-month period ending June 30, the Authority investigated 10 cases involving deaths in police custody, pursuit, or while police were present. Police were exonerated in 1 of the 10 cases; the remaining cases were pending as of June 30.

In November, the State Services Commission began an inquiry into the activities of a former Canterbury prison guard unit nicknamed “the Goon Squad,” which operated in 1999 and 2000 and allegedly was responsible for the death of a prisoner in transit and the use of excessive force; the investigation was ongoing at year’s end.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and the Government generally respected these prohibitions in practice.

There were some complaints that individual members of the police committed abuses during the year. The Independent Police Complaints Authority accepted for investigation 2,369 complaints against the police in the 12-month period ending June 30 and upheld 180.

Prison conditions generally met international standards, and the Government permitted visits by human rights observers. In 2000, prison overcrowding prompted the Government to begin a major building program. A 360-bed men’s facility opened in 2002. As of June 30, the male inmate population was 5,795, and total prison bed capacity was 6,121. Since 1999, the Government has been adding prison beds for women and, as of June 30, had a total capacity of 344 beds for a female inmate population of 320. In October, the Department of Corrections inaugurated a 60-bed faith-based unit at Rimutaka Prison, aimed at reducing recidivism.

In 2002, the Government began a program to reduce recidivism among female inmates by creating mother-baby feeding facilities, parenting programs, and enhanced family visitation opportunities. Babies under 6 months of age were allowed to live with their mothers in prison, where appropriate. Under the Criminal Justice Act of 1985, the Minister of Corrections also may grant early release to an inmate who has given birth while serving a determinate sentence.

Maori make up only 15 percent of the general population but were approximately 50 percent of the prison population as of June. The Government sought to reduce Maori recidivism through special programs to integrate Maori cultural values into the rehabilitation program (see Section 5); there were Maori focus units at 5 of the country's 18 prisons.

Assaults in prisons (inmate on inmate) increased nominally to approximately 2 per 1,000 for the period July 2002–June from 1.9 per 1,000 in 2001–2002. There were two serious assaults on staff by inmates in the 12-month period ending June 30. During the same period, there were 14 recorded deaths in custody, including 5 assumed suicides and 1 assumed homicide; in the latter case, inmates beat another inmate to death in Wanganui's Kaitoke prison in March. In September, an inmate committed suicide in Auckland's privately run Central Remand Prison. All new corrections officers received suicide awareness training, including tools to manage at-risk inmates effectively.

In October, nine inmates of Auckland's Paremoremo Prison Behavioral Management Regime (BMR) brought a case against the Department of Corrections, alleging that the BMR, a special unit set up in 1998 that isolates prisoners for violent behavior posing a risk to staff or other inmates, constituted torture. The prisoners alleged that they were subjected to psychological torture and inhumane conditions, including being kept in solitary confinement for up to 23 hours a day, being denied access to adequate ventilation or natural light, and not being allowed outside to exercise. The case was pending at year's end. During the year, a woman won a case against the police after she was held for deportation for 2 days in a prison cell and was denied access to sanitary products.

Male and female inmates normally were housed separately; there were 15 men's prisons and 3 women's prisons. There also was a temporary unit for female inmates at Waikeria Prison. Juvenile detainees come under the jurisdiction of Child, Youth, and Family Services (CYFS) rather than the police. Inmates under age 20 constituted approximately 6 percent of the total prison population. There were 4 special youth units under the Department of Corrections, providing a peer-based approach to rehabilitation for inmates under the age of 17 and vulnerable 17-to-19-year-olds. Despite increases in capacity, a shortage of beds for youthful offenders continued to be a problem during the year. At year's end, the 4 youth units had a combined capacity of 143 beds. CYFS facilities had 75 beds for juvenile offenders charged with less serious offenses whose cases were handled by the Youth Court, with an additional 15 beds planned for 2004; an additional 6 CYFS beds were available for juveniles sentenced to imprisonment for indictable offenses. In 2002, the Sentencing and Parole Act was amended temporarily to permit youths ages 15 and older to be remanded to adult facilities. Since the amendment was passed in 2002, 12 juveniles have been held in adult remand centers. Pretrial detainees were housed separately from convicted prisoners to the extent possible.

The country has expanded its use of home detention for minor offenders, in order to separate them from the corrupting influences of prison. Between January and September, 1,120 offenders were sentenced to home detention; of these, approximately 50 percent were European, 37 percent Maori, 9 percent Pacific Islander, and 3 percent Asian. The average length of home detention was between 16 and 19 weeks.

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

The Police Commissioner, appointed by the Governor General, is the chief executive of the police force and reports to the Minister of Police. A Board of Commissioners, consisting of the Commissioner and two Deputy Commissioners, is responsible for high-level leadership of the police and makes decisions on police strategy, governance and performance management. Nationally, the police are organized into 12 districts, which are administered from the Office of the Police Commissioner in Wellington. There are three operational branches: General Duties, Criminal Investigation, and Traffic Safety. Allegations of corruption or impunity are referred to the Independent Police Complaints Authority, which can refer cases directly to Parliament. The police generally did not have problems with corruption and impunity.

In 2002, the High Court ruled that detained asylum seekers had the right to seek release on bail and that the Government's operating instructions regarding detention of asylum seekers violated domestic and international refugee law. However, in April, the Court of Appeal overturned the High Court decision and ruled that, under certain circumstances, the Immigration Service has the power to detain refugee status claimants on their arrival in the country (see Section 2.d.).

There is no statutory authority for imposing a sentence of exile, and the Government did not practice forced exile. The Bill of Rights guarantees every citizen the right to enter the country.

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

In October, Parliament passed a law creating a domestic Supreme Court to replace the Privy Council in London as the country's highest court of appeal. The Supreme Court, to be composed of the Chief Justice and four other judges appointed by the Governor General, was scheduled to come into being on January 1, 2004, with hearings to commence on July 1, 2004.

The Court of Appeal is the highest appellate court below the new Supreme Court; it hears appeals from the High Court, which has original jurisdiction for major crimes and important civil claims. The High Court also hears appeals from lower courts and reviews administrative actions. Remaining original jurisdiction rests with the 66 district courts. Special courts include the Employment Court, family courts, youth courts, the Maori Land Court, the Maori Appellate Court, and the Environment Court. The country's military forces have their own court system, with a Courts Martial and a Courts Martial Appeals Court.

The law provides for the right to a fair trial and affords defendants the rights found in other common-law jurisdictions. An independent judiciary generally enforced these rights.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press, including academic freedom.

The Government did not restrict Internet access.

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

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

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the Government generally respected them in practice.

The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government also provides protection to certain individuals who fall outside of the definition of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. Under its refugee quota, the Government resettles up to 750 UNHCR-approved refugees per year. From July 1, 2002 to July 30, the Government approved 247 applications for refugee status.

In 2002, a joint report by the Refugee Council of New Zealand and the Human Rights Foundation of Aotearoa expressed concerns about an alleged lack of human rights safeguards for detained asylum seekers; it recommended that children and other vulnerable persons not be detained pending resolution of their claims and that other asylum seekers be detained only in exceptional circumstances. The High Court subsequently ruled that asylum seekers retained the right to seek bail from detention and that the Government's operating instructions on detention of asylum seekers failed to comply with domestic and international refugee law. The Government appealed this ruling. In April, the Court of Appeal overturned the High Court's decision and ruled that, under certain circumstances, the Immigration Service has the power to detain refugee status claimants on their arrival in the country. The ruling noted that children under 17 who must be detained overnight must be detained in a residence or other premises under the control of, or approved by, the department responsible for the administration of the Children, Young Persons, and Their Families Act or in a location approved by the child's parent or guardian and an immigration officer.

During the year, Amnesty International and other human rights groups expressed concern about the continued detention of Ahmed Zaoui, a former member of the Al-

gerian Parliament, who traveled to the country from Malaysia in December 2002 on a false passport and requested asylum. In January, his asylum application was denied by a refugee status officer acting under the 1987 Immigration Act. The Refugee Status Appeals Authority (RSAA) allowed his appeal against the officer's decision to proceed, and, in August, concluded that he met the definition of a refugee. However, the intelligence service had issued a Security Risk Certificate in March asserting that Zaoui was a threat to national security, a claim the RSAA disputed. Zaoui was detained in solitary confinement from December 2002 until October, when he was transferred to a different prison; he remained in detention at year's end awaiting a final determination on his status. In December, the High Court ruled that human rights must be considered in the Inspector General's review of the Security Risk Certificate on Zaoui and that he should be given access to a meaningful summary of the information against him.

In September, Parliament passed legislation giving judges the authority to order the continued detention of illegal immigrants in cases where the immigrants' own actions were preventing their deportation. Parliament took this action after an incident in which an Afghan man allegedly shot a woman 4 days after his release from prison, where he had been held for 6 months after refusing to apply for a passport to enable the Government to deport him. He was released a day after the High Court ruled that an unsuccessful Iranian refugee claimant, who also refused to apply for a passport, was being detained unlawfully under the Immigration Act. The Minister of Immigration reportedly stated that the Afghan man was the only other person freed because of this High Court ruling.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Parliamentarians are elected under a mixed-member proportional representation system. In the most recent general elections, held in July 2002, the Labor Party won 52 of 120 parliamentary seats and formed a minority government with the Progressive Coalition Party (2 seats), with support from the centrist United Future Party (8 seats); Helen Clark remained Prime Minister. The Labor Party also had a cooperation agreement with the Green Party (9 seats). Three other political parties were represented in Parliament: The National Party (27 seats), New Zealand First (13 seats), and the ACT party (8 seats).

Women are accorded full opportunity to participate in political life. There were 35 women in the 120-seat Parliament. There were 8 women (including the Prime Minister) on the Executive Council, which comprises 27 ministers (20 within the Cabinet and 7 outside the Cabinet). The Cabinet included six women. The Prime Minister, the Attorney General, and the Chief Justice are women; the Governor General, who represents the Queen, also is a woman. There were 2 women in the 25-seat Parliament of the dependent territory of the Cook Islands, and 1 woman in the 20-seat Parliament of the dependent territory of Niue.

Seven seats in Parliament are reserved for persons of Maori ancestry. The number of Maori seats is adjusted every 5 years, based on the number of persons of Maori ancestry who register to vote on the Maori electoral roll rather than the general electoral roll. The number of Maori seats was increased from six to seven in 2001.

There were 20 Maori, 3 members of Pacific Island origin, and 1 member each of East and South Asian heritage in Parliament. The first Muslim Member of Parliament was elected in 2002. The Cabinet included at least 5 members with Maori ancestry.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. The Human Rights Commission (HRC), a U.N.-accredited national human rights institution, investigates complaints of human rights violations and unlawful discrimination and acts as a conciliator. The HRC, which presents an annual report to Parliament, is funded by the Government but acts independently.

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

The law prohibits discrimination on the basis of race, sex, religion, disability, and national or ethnic origin, and the Government actively enforced it.

Women.—Violence against women remained a serious problem, although convictions for assaults by males against females (all races) decreased from 2,916 for the period July 2001–June 2002 to 2,630 for the period July 2002–June. Just over half (52 percent) of those convicted were Maori, 30 percent were of European origin, and 14 percent were Pacific Islander. Assaults on a child remained level during the same period; there were 292 cases from July 2001–June 2002 compared with 294 cases from July 2000–June 2001.

Convictions for breaching protection orders issued under the provisions of the Domestic Violence Act continued to fall, declining from 2,360 in the period July 2000–June 2001 to 2,038 in the period July 2001–June 2002. Approximately 96 percent of those convicted for breaching a protection order were men. Of these, 41 percent were Maori, another 41 percent were European, and 7 percent were Pacific Islander.

According to a National Survey of Crime Victims conducted in 2001 and released in May, an estimated 32 percent of Maori, 17 percent of persons of European ancestry, and 12 percent of Pacific Islanders reported violent abuse by a heterosexual partner at least once in their lifetime; these figures included both men and women. One in four of the women included in the survey reported experiencing violent behavior from a partner at least once. According to the survey, Maori women (42 percent) were more than twice as likely as European women (20 percent) and Pacific Islander women (17 percent) to experience violence from a partner. Although Maori women and children constituted less than 10 percent of the population, approximately half the women and children who used the National Council of Independent Women's Refuges were Maori.

The law penalizes spousal rape. The Government prosecuted and convicted a small number of persons for spousal rape or unlawful sexual connection with a spouse during the year. Rape crisis groups existed throughout the country and included centers focusing specifically on Maori and Pacific Islanders. Rape crisis groups asserted that most sexual assault cases went unreported and that only a small percentage of reported cases resulted in convictions, a fact borne out by the results of the 2001 crime victims survey. There were 3,312 recorded sexual offenses from July 2002 to June, down 6.5 percent from those recorded in the previous 12-month period.

The 1995 Domestic Violence Act broadened the definition of violence to include psychological abuse, threats, intimidation, harassment, and allowing children to witness psychological abuse. It provides for expanded intervention measures, such as the use of protection orders; education programs for men, women, and children; stronger police powers to arrest and detain offenders; improved access to legal services for women eligible for legal aid; and tougher penalties for breach of a protection order. From July 2001 through June 2002, the Family Court received 23,805 applications for protection orders under the Act.

The Ministry of Justice worked with the Ministry of Social Development to launch a Family Violence Strategy and Youth Offending Strategy as part of its Crime Reduction Strategy. In 2002, 30 Youth Offending Teams began work to coordinate the work of local youth support agencies. The teams included representatives from the police, CYFS, and health and education agencies. In 2002, the Government also introduced "Te Rito," a national strategy to address all forms and degrees of domestic violence. The strategy had a 5-year implementation plan separated into 18 areas of action. These areas of action included monitoring and enforcing legal sanctions for family violence offenders, increasing public education and awareness, promoting and increasing child advocacy services, and developing specific culturally appropriate responses to prevent violence in Maori and Pacific Islander communities. The Government partially funded women's shelters, rape crisis centers, sexual abuse counseling, family violence networks, and violence prevention services.

Female genital mutilation (FGM) is not traditionally practiced in the country. However, in the mid-1990s, cases of FGM were documented in the Somali, Sudanese, and Ethiopian immigrant communities. A 1996 law made it illegal to perform FGM or to remove a child from the country to carry out the procedure; violations of the law are punishable by up to 7 years in prison. The Government also funded a national FGM education program. During the year, the Government sponsored ongoing public awareness campaigns to address FGM, a child protection network, and a refugee health education program providing information and medical care to new immigrants. There were no FGM cases reported during the year.

The 2003 Prostitution Reform Bill legalized prostitution. The legislation sets a minimum age of 18 to work in the industry, gives prostitutes the same workplace protections as other industries, and provides for a licensing regime for brothels. In addition, the law removes a client's ability to defend himself from prosecution based on his belief that an underage sex worker was 18 years or older, and extends prosecution to any person receiving financial gain from an act involving an underage

sex worker. The law prohibits sex tourism, and citizens who commit child sex offenses overseas can be prosecuted in New Zealand courts. There were no reports of abuse or the involuntary detention of women involved in prostitution during the year; however, there were several credible reports that women smuggled into the country were forced into prostitution to repay substantial debts to traffickers. There were also reports that some foreign commercial sex workers had their passports withheld by employers until bonds were repaid (see Sections 6.c. and 6.f.).

The law prohibits sexual harassment; however, it was a serious problem. In a survey commissioned in 2001 by the National Human Rights Commission, 31 percent of women and 13 percent of men reported experiencing sexual harassment. The Department of Labor reported settlement of 48 cases of sexual harassment from July 2002 to June. The HRC offered sexual harassment prevention training.

The Ministry of Women's Affairs addresses issues of discrimination and gender equality, and there is a Minister of Women's Affairs in the Cabinet. While the law prohibits discrimination in employment and in rates of pay for equal or similar work, the Government acknowledged that a gender earnings gap persisted in practice. Statistics as of May indicated that women earned 76 percent of men's average total wage and 84.4 percent of men's average ordinary hourly wage. Maori and Pacific Islander women earned 73.8 and 70.3 percent, respectively, of the average hourly earnings of men. During the year, the Ministry of Women's Affairs undertook a pay equity project with the Department of Labor.

Children.—The law provides specific safeguards for children's rights and protection. The Government demonstrated its commitment to children's rights and welfare through its well-funded systems of public education and medical care. In 2001, the Government instituted 12 weeks of government-funded, paid parental leave to care for children born after July 2002. The office of the Commissioner for Children played a key role in monitoring violence and abuse against children.

During the year, the Government agreed in principle to remove its reservation to Article 37(c) of the U.N. Convention on the Rights of the Child (concerning acceptance of the definition of a "child" as a person up to age 18), for implementation following completion of additional youth units for juvenile offenders (see Section 1.c.) and development of a "test of best interests" for determining placement in such units.

The law provides for compulsory, free, and universal education through age 16, and the Government effectively enforced the law. The Government provided free health care to all children under age 5.

Child abuse continued to gain significant attention. According to a UNICEF report released in September, there were 1.2 deaths from physical abuse per 100,000 children during the period 1994–1998. From July 2001 to June 2002, 6,892 children were assessed as abused or neglected. This resulted in a child abuse rate of 6.9 children for every 1,000 children under 17, a slight increase from the July 2000–June 2001 statistic of 6.7 children per 1,000. During the same period, there were approximately 2,026 reported cases of physical abuse, 1,262 cases of sexual abuse, and 2,121 cases of severe emotional abuse of children. Ten Maori children per 1,000 were reported abused or neglected, compared with 6 per 1,000 for non-Maori children. In 2000, the Government instituted an expanded program of information sharing between the courts and health and child protection agencies to identify children at risk of abuse. During the 12-month period ending June 30, applications to Family Court requested protection for 31,781 children. Of these cases, 80 percent required further action from the CYFS.

A 2002 study published by the Ministry of Justice concluded, on the basis of anecdotal evidence, that commercial sexual exploitation was a growing problem throughout the country. A 2001 study by the nongovernmental organization (NGO) End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes New Zealand (ECPAT NZ) found 140 children between the ages of 11 and 16 who were described as having sex for money and goods. In 2001, the Government published a National Plan of Action against the Commercial Exploitation of Children developed in concert with NGOs. The Prostitution Reform Act made it illegal to have sex with an individual under 18 years old (see Section 6.f.). Assistance programs for victims of debt bondage were implemented through the HRC, the Mayor of Auckland, the police, the Immigration Service, and NGOs, including ECPAT NZ, the Prostitutes Collective, and Shakti Asian Women's Refuge. Other initiatives included distribution of pamphlets about the unacceptability of commercial sexual exploitation of children and peer counseling programs.

In July, a man received the then-maximum allowable prison sentence of 26 months for trading objectionable pornographic material. In August, a man was sentenced to 20 months in prison on 24 Internet pornography charges related to children. Both men were apprehended by the Department of Internal Affairs' Censor-

ship Compliance Unit, which was established in 1996 to police Internet child pornography. In 1995, the Government introduced extraterritorial jurisdiction over child sex offenses committed by the country's citizens abroad.

In the mid-1990s, there were a small number of documented FGM cases, most involving young girls, in Somali, Sudanese, and Ethiopian immigrant communities. However, there were no documented cases of FGM during the year (see Section 5, Women).

Incidents of trafficking in children for sexual purposes have been documented; however, there were no such cases during the year. The Government worked with the NGO ECPAT NZ to combat trafficking in children (see Section 6.f.).

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to places and facilities, and the provision of goods, services, and accommodation. Compliance with access laws varied. The Government is prohibited from discrimination on the basis of disability, mental or physical, unless such discrimination can be “demonstrably justified in a free, democratic society.” The Human Rights Commission reported that during the year, it continued to receive more complaints of discrimination based on disability than for any other type of discrimination. The International Labor Organization (ILO) has criticized the Government for not collecting adequate data regarding the employment of persons with disabilities.

Both the Human Rights Commission and the Mental Health Commission continued to address mental health issues in their antidiscrimination efforts during the year.

Indigenous People.—Approximately 15 percent of the population claim at least one ancestor from the country's indigenous Maori or Moriori minorities. The law prohibits discrimination against the indigenous population; however, the Government's May 2000 Closing the Gaps report noted a continuing pattern of disproportionate numbers of Maori on unemployment and welfare rolls, in prison, among school dropouts, in infant mortality statistics, and among single-parent households. For example, the official Maori unemployment rate remained more than twice the national average of 4.4 percent, despite a Household Labor Force Survey released in November that showed that the Maori unemployment rate had dropped from an average of 17.9 percent in 1999 to 10.6 percent in first 9 months of the year. Maori officials continued to express concern over the Government's strategy of addressing socioeconomic rather than race-based disparities.

Maori inmates continued to constitute more than half the prison population. The Government addressed the problem of recidivism among Maori through Maori focus units and special cultural assessments of Maori offenders. Five Maori focus units, involving approximately 300 inmates, integrated Maori values into the prison rehabilitation program. A special program for Maori sex offenders, Kia Marama, halved the rate of recidivism among participants.

Government policy recognizes a special role for indigenous people and their traditional values and customs, including cultural and environmental issues impacting commercial development. The Ministry of Maori Development, in cooperation with several Maori NGOs, sought to improve the status of indigenous people. A special tribunal continued to hear Maori tribal claims to land and other natural resources stemming from the 1840 Treaty of Waitangi.

During the year, the issue of ownership of the foreshore (defined as the land between high and low tide) and the seabed was the focus of protests both by Maori groups asserting customary title to the land, and non-Maori groups opposing such claims. In December, the Government introduced legislation to clarify the issue of equal access to the foreshore for all citizens.

National/Racial/Ethnic Minorities.—Pacific Islanders, who make up 6.5 percent of the population, experienced societal discrimination similar to that experienced by Maori. Pacific Islanders also were overrepresented in the prison system, accounting for approximately 10 percent of inmates. The Department of Corrections continued its strategy to reduce the crime rate among Pacific Islanders through the use of culturally based techniques. Asians, who make up less than 5 percent of the population, also reported discrimination.

The 2001 Crime Victims Survey showed that Pacific Islanders were as likely as Europeans to be victims of crime in 2000, in contrast with previous research that stated they were a higher risk group. However, Pacific Islanders were more likely than the other groups to be subjected to repeated victimization, particularly violent victimization. Overall, Pacific Islanders experienced less victimization than Maori.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers the right to establish and join organizations of their own choosing, and workers exercised this right in practice. The principal labor organization is the New Zealand Council of Trade Unions, a federation that includes unions representing various trades and locations. In 2000, the Council of Trade Unions merged with the second-largest labor federation, the New Zealand Trade Union Federation. As a result, nearly all unionized workers are members of the Council of Trade Unions. A few small, independent labor unions also exist. Unions represented approximately 21 percent of all wage earners.

Labor organization is rudimentary in the territory of Tokelau (population 1,500) and in the Freely Associated State of Niue (population 1,700). In the more developed Associated State of the Cook Islands (population 19,000), most workers in the public sector, the major employer, belonged to the Cook Islands Workers' Association, an independent local union. Industrial relations in the Cook Islands are governed by a simplified version of national legislation.

The law protects unions from governmental interference, suspension, and dissolution.

The law prohibits uniformed members of the armed forces from organizing unions and bargaining collectively. Under the law, "sworn police officers" (which includes all uniformed and plainclothes police but excludes clerical and support staff) are barred from striking or taking any form of industrial action. However, police have freedom of association and the right to organize and to bargain collectively.

The law prohibits anti-union discrimination against members and organizers. Unions may affiliate internationally. The New Zealand Council of Trade Unions is affiliated with the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively.—The law provides for the right of workers to organize and contract collectively, and workers exercised this right in practice.

Unions influenced legislation and government policy. Some unions were affiliated with the Labor Party; others operated independently of political parties; all were free to support parties whose policies they favored.

In 2000, the Government significantly changed the law governing industrial relations, repealing the Employment Contracts Act of 1991 and replacing it with the Employment Relations Act (ERA). The ERA promotes collective bargaining, strengthens unions, and requires that parties to an employment agreement bargain in good faith to achieve either a collective or individual employment agreement. The act also promotes mediation and attempts to reduce the need for judicial intervention. Under the ERA, employment relationships are based on contracts. Individual employees and employers may choose to conduct negotiations for employment contracts on their own behalf or may authorize any other person or organization to do so on their behalf. Although choosing a union is entirely voluntary, unions remained the most common agents used by workers to negotiate with employers. Employers must recognize a representative authorized by an employee or employees.

During the year, the Government conducted a technical review of ERA legislation, prompted by the June ratification by the Parliament of ILO Convention 98 on the right to organize and bargain collectively.

The Government does not control mediation and arbitration procedures. The ERA strongly encourages mediation and requires that the majority of employment disputes first proceed through mediation. It also established the Employment Relations Authority as an investigative body to establish the facts of an employment relationship dispute and to make a determination according to the merits of the case. There is also an Employment Court with exclusive jurisdiction over employment matters. Appeals from the Employment Court to the Court of Appeal are possible. Firing an employee for union activities is grounds for a finding of unjustified dismissal and may result in reinstatement and financial compensation. Other than police and armed forces personnel, public services employees, including essential service employees such as prison workers, may organize and strike. Disputes that cannot be settled by negotiation between the Police Association and management are subject to compulsory, final-offer arbitration.

Sympathy strikes, secondary strikes, and strikes over social or political causes are illegal.

Unions often exercised the right to strike. Significant limitations on the right to strike were eliminated when the ERA replaced the Employment Contracts Act; unions no longer are limited to strikes related to the negotiation of a collective contract and may strike in pursuit of multiemployer contracts across an entire economic sector.

During the 12 months that ended in March, there were 40 work stoppages, involving 17,624 workers and the loss of approximately \$2.31 million (\$NZ3.6 million) in wages and salaries. This represented a 13 percent decrease in the number of work stoppages compared with the previous reporting period (July 2001–June 2002), involving 28 percent fewer workers and a 54 percent decrease in lost wages and salaries.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or bonded labor, including by children. Inspection and legal penalties ensured respect for provisions against forced labor. There were no reports of the involuntary detention of women involved in prostitution; however, there were reports that some foreign commercial sex workers had their passports held by employers until bonds were repaid. In May, a Thai woman settled a civil court case for the money that she had paid traffickers. The woman believed that she was coming to the country to work in a restaurant but was forced into prostitution.

d. Status of Child Labor Practices and Minimum Age for Employment.—Department of Labor inspectors effectively enforced a ban on the employment of children under the age of 15 in manufacturing, mining, and forestry. Children under the age of 16 may not work between the hours of 10 p.m. and 6 a.m. By law, children enrolled in school may not be employed, even outside school hours, if such employment would interfere with their education.

e. Acceptable Conditions of Work.—A 40-hour workweek is traditional. There are legal limits regarding hours worked; for example, professional drivers must have a 24-hour rest period after an 11-hour day. There is premium pay for overtime work. The law does not provide specifically for a 24-hour rest period weekly; however, management and labor have accepted the practice, and it was the norm. The law provides for a minimum 3-week annual paid vacation and 11 paid public holidays. In 2000, the Government mandated an hourly minimum wage of approximately \$4.95 (\$NZ7.70) and lowered the minimum age of eligibility for this wage to cover workers ages 18 to 20. In March, the minimum wage was increased to approximately \$5.46 (\$NZ8.50). Combined with other regularly provided entitlements and welfare benefits for low-income earners, this wage was generally adequate to provide a decent standard of living for a worker and family. There is a separate youth minimum wage for younger workers (ages 16 to 17), which was increased in March to approximately \$4.37 (\$NZ6.80). Legislation passed in June allows trainees to receive a minimum training wage, which is equivalent to the youth minimum wage. A majority of the work force earned more than the minimum wage.

Extensive laws and regulations govern health and safety issues. Under these rules, employers are obliged to provide a safe and healthy work environment, and employees are responsible for their own safety and health, as well as ensuring that their actions do not harm others. As a result of union criticism, the law was reviewed by Parliament, and amendments to the ERA were introduced in December; however, they had not been enacted by year's end.

Workers have the legal right to strike over health and safety issues. Unions and members of the general public may file safety complaints on behalf of workers. Department of Labor inspectors effectively enforced safety and health rules, and they had the power to shut down equipment if necessary. The Department of Labor standard is to investigate reports of unsafe or unhealthy working conditions within 24 hours of notification. Inspectors can issue notices of deficiencies and bring prosecutorial action to enforce workplace safety. Workers have the right to withdraw from a dangerous work situation without jeopardy to continued employment.

Labor laws were applied to foreign workers and citizens in the same manner.

f. Trafficking in Persons.—The country has been a destination for internationally trafficked persons and, to a lesser extent, a transit point for persons being trafficked to the United States and other countries. In 2002, the Government passed legislation that criminalizes alien smuggling and trafficking in persons, with penalties of up to 20 years in prison and fines of up to \$321,337 (\$NZ 500,000). Laws against child sexual exploitation and slavery carry penalties of up to 14 years in prison. Trafficking in women and children (particularly from Thailand) to work in the sex industry has been a problem. Since the Government imposed a visa requirement for Thai nationals in 2001 in an effort to reduce the trafficking of women, no new cases of internationally trafficked persons have been brought to the attention of the authorities. However, there were continuing reports that undocumented Thai and Chinese were forced to work in the sex industry to repay debts to smugglers. There were concerns that the passage of the Prostitution Reform Bill (see Section 5) would increase trafficking to the country, specifically among Southeast Asian women who arrive believing they will be enrolled in an English-language school.

Shakti Migrant Services Trust, an antitrafficking NGO, provided reports of prostitution and abuse resulting from the immigration of Indian women for arranged marriages. The Trust reported that some of these women were forced to work long hours, treated as virtual slaves, and in some cases forced into prostitution.

In July, an Australian man was the first person charged under the new Immigration Amendment Act of 2002 with attempting to help a foreigner enter the country illegally for the purpose of prostitution.

The Government worked with the NGO ECPAT NZ to combat trafficking in children. There were no documented incidents of trafficking in children for sexual purposes during the year.

The Government provided funding for the Human Rights Commission to coordinate antitrafficking activities, for health services for trafficked persons, and for the New Zealand Prostitutes Collective to provide peer counseling and assistance to trafficked persons. The major urban areas have support networks for trafficked individuals, including mechanisms to provide safehouses and repatriation. Antitrafficking campaigns included literature on how to escape from prostitution, translated into the Thai language and distributed throughout the commercial sex worker areas in Auckland.

PALAU

Palau, formerly a U.N. trusteeship administered by the United States, became an independent nation in free association with the United States on October 1, 1994. The democratically elected government is modeled after that of the United States. The Constitution provides for executive and legislative branches and free and fair elections. Members of the legislature, the Olbiil Era Kelulau, are elected for 4-year terms. The President and Vice President also are elected for 4-year terms. In the November 2000 general elections, Vice President Tommy E. Remengesau, Jr. won the presidential race and Senator Sandra S. Pierantozzi became the first female Vice President. The country is organized politically into 16 states. The Council of Chiefs, consisting of the highest traditional chiefs from each state, advises the President on traditional laws and customs. The judiciary is independent.

The country has no security forces other than police and civilian law enforcement personnel; all were under the effective control of the civilian authorities. The Ministry of Justice oversees the national police force. The country also has a Marine Law Enforcement Division that patrols its borders with assistance from the Australian Government. Under the Compact of Free Association, the United States is responsible for the country's external defense. There were no reports that members of the security forces committed human rights abuses.

The small, market-based, mixed economy was sustained largely by transfer payments from the United States. The population was approximately 19,100 according to the 2000 census. The Government employed approximately 29 percent of the work force. The rate of economic growth was 2.3 percent in 2002. Traditional subsistence agriculture and fishing diminished as persons moved to urban areas in search of employment. An increasing number of Chinese farmers operated vegetable farms that competed with indigenous farmers; most indigenous farmers worked and sold what they produced from their own land.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. Traditional customs sustain a value system that discriminates between persons on the basis of social status and sex. Domestic violence and child neglect continued to be problems. Societal discrimination and some abuse against certain foreign workers, who accounted for nearly 30 percent of the population and 73 percent of the paid work force, also were serious problems. There were reports of persons being trafficked to the country from the People's Republic of China (PRC), the Philippines, and Taiwan.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and there were no reports that government officials employed them.

Some witnesses asserted that police used excessive force during a clash with PRC citizen workers of a defunct garment factory (see Section 6.e.) who barricaded themselves inside a restaurant in April and allegedly held a police officer hostage for several hours. The Government responded that the police used an appropriate level of force to deal with the situation.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. However, during the year, the country's sole prison suffered from overcrowding resulting from increased convictions and mandatory sentences for firearms and drug-related offenses. Members of the Palau Red Cross Society, which is affiliated with the International Federation of Red Cross and Red Crescent Societies, have visited the prison. Government health and sanitation officials also inspected the prison regularly. The prison has separate quarters for men, women, juveniles, and pretrial detainees.

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

The Bureau of Public Safety within the Ministry of Justice is the country's primary law enforcement agency, and performs both police and emergency response functions. It has a force of approximately 300 officers. In addition to training received locally, some law enforcement personnel received training in other countries. The police generally were considered effective. Since 2000, the overall crime rate has fallen, and investigations, prosecutions, and convictions for drug offenses increased. Corruption and impunity were not major problems. An Internal Affairs Officer within the bureau investigates reports of police misconduct. There also is a Special Prosecutor within the Ministry of Justice, with authority to investigate reports of misconduct by government employees.

Warrants for arrests are prepared by the Office of the Attorney General and signed by a judge. Detainees had prompt access to family members and lawyers. If a detainee could not afford a lawyer, the Public Defender or a court-appointed lawyer was available. There was a functioning system of bail. Lengthy pretrial detention was not a problem.

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

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

The judiciary consists of the Supreme Court, the National Court, and the Court of Common Pleas. The President appoints judges to the Supreme Court and National Court from a list recommended by the Judicial Nominating Commission. Appointments are for life.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The Government has an independent special prosecutor and an independent public defender system.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press, including academic freedom.

The Internet was easily accessible; the Government did not control or limit its use.

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

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

The Government did not promote or restrain religious activities; however, it regulated the establishment of religious organizations by requiring them to obtain charters as nonprofit organizations from the Office of the Attorney General. This registration process was not protracted, and the Government did not deny any groups registration during the year.

In 1998, in response to complaints from employers that the religious practices of Bangladeshi Muslims interfered both with activity in the workplace and with the living arrangements of the employing families, the Ministry of Commerce and Trade decided to deny work permits to Bangladeshi workers in the future. In 2001, the

Ministry extended this policy to Indians and Sri Lankans, both Muslims and non-Muslims. Workers already in the country were not expelled.

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

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

The law does not include provisions for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government has not formulated a policy regarding refugees or asylum, and government practice remained undefined. However, there were no reports of the forced return of persons to a country where they feared persecution. The issue of cooperation with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees never has arisen.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The Constitution provides for executive and legislative branches. The legislature, the Olbiil Era Kelulau, consists of 2 equal houses: The 9-member Senate and the 16-member House of Delegates. The President and Vice President are elected by popular vote and have no limit on the number of their terms, except that the President may serve only two consecutive terms. Although there have been political parties in the past, there were none during the year. In the November 2000 general elections, Vice President Tommy E. Remengesau, Jr., won the presidential race, and Senator Sandra S. Pierantozzi became the first female Vice President.

There are no legal impediments to women participating in government and politics. Women constituted 16 percent of state government legislators, down from 18 percent in 2002. A woman was governor of 1 of the 16 states. No women were elected to the Olbiil Era Kelulau in the 2000 election.

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

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

The Palau Red Cross Society opened its office in 1996, and in 1997, it joined the International Federation of Red Cross and Red Crescent Societies.

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

The Constitution prohibits discrimination on the basis of sex, race, place of origin, language, religion or belief, social status, or clan affiliation, and the Government observed these provisions.

Women.—There were many incidents of violence against women, primarily domestic abuse. Alcohol and illegal drug abuse increasingly contributed to this problem. According to the Office of the Attorney General, the Government's Public Health Office, and women's groups, only a few such cases are reported to the authorities every year. Although assault is a criminal offense, women were reluctant to prosecute their spouses.

The law prohibits rape, including spousal rape; however, such crimes were not common. The Bureau of Public Health and the Bureau of Public Safety have urged all victims of crime, including rape, to report offenses.

Prostitution is illegal, and it was a problem; there were reports of women being trafficked to the country from the PRC, Taiwan, and the Philippines to work in karaoke bars as hostesses and prostitutes (see Section 6.f.). There were no prosecutions for prostitution during the year.

Sex tourism is illegal, and it was not a problem. Sexual harassment is illegal, and did not appear to be a major problem.

Two cases alleging sexual harassment were brought during the year; they were pending at year's end.

The inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance within the traditional system. Women serve by presidential appointment as bureau directors for human resources and clinical services. There were no reported instances of unequal pay for equal work or sex-related job discrimination.

Since 1993, local women's groups have organized an annual women's conference that focuses on women's and children's issues, including health, education, drug abuse, prostitution, and traditional customs and values. Government officials, including the President, Vice President, ministers, and traditional chiefs, have participated in the conference to discuss these issues. Women's group leaders and government officials agreed that changes were needed to improve the country's educational system and to reduce illegal drug use among youth. The 10th Annual Women's Conference held in April continued its focus on previously discussed issues and problems.

Children.—The Government provided a well-funded system of public education and medical care for children. There was no difference in the treatment of girls and boys in educational opportunities, or in the availability of scholarships to attend postsecondary education abroad. Education was mandatory from ages 6 to 17; it was free and universal. Ninety-four percent of school-age children attended school; of these, 97 percent finished elementary school and 78 percent completed high school. Girls and boys received equal treatment in health care services.

While there have been a few instances of child abuse, cases have been prosecuted successfully by the Office of the Attorney General. While children's rights generally were respected, there were reports of several instances of child neglect, which was a byproduct of the breakdown of the extended family. Commercial sexual exploitation of children was neither accepted within society nor practiced.

Government officials and representatives from nongovernmental organizations (NGOs) agreed that changes were needed to improve the educational system and to reduce illegal drug abuse among youth.

Persons with Disabilities.—The National Code includes a Disabled Persons Anti-discrimination Act and a Handicapped Children Act, and the Government enforced the provisions of these acts. No instances of discrimination against persons with disabilities were reported. The law requires building access for persons with disabilities, and most government and business buildings have access for such persons. The public schools have established special education programs to address problems encountered by persons with disabilities.

National/Racial/Ethnic Minorities.—The law prohibits noncitizens from purchasing land or obtaining citizenship. The rapid increase in foreign workers, who according to the 2000 census constituted nearly 30 percent of the population and 73 percent of the work force, was viewed negatively by a majority of citizens. Foreign residents were subjected to some forms of discrimination and were targets of petty, and sometimes violent, crimes, as well as other random acts against person and property. Foreign residents made credible complaints that crimes against noncitizens were not pursued or prosecuted by authorities with the same vigor as crimes against citizens.

Certain foreign nationals experienced generalized discrimination in employment, pay, housing, education, and access to social services, although the law prohibits such discrimination. While precise data was lacking, there continued to be anecdotal reports regarding the abuse of workers' civil rights perpetrated against domestic servants, female bar workers, construction laborers, and other semiskilled workers, the majority of whom were from the Philippines, the PRC, and Taiwan. The most common abuses included misrepresentation of contract terms and conditions of employment, withholding of pay or benefits, and, at times, physical abuse (see Section 6.e.). In a number of instances, local authorities took corrective action when alerted by social service and religious organizations to which foreign workers had turned for assistance. Nonetheless, foreign workers often were reluctant to seek legal redress for fear of losing their employment and, thus, permission to remain in the country.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right of all persons to assemble peacefully and to associate with others for any lawful purpose, including the right to join and organize labor unions. However, there were no active labor unions or other employee organizations.

b. The Right to Organize and Bargain Collectively.—There is no legislation concerning trade union organization, including collective bargaining, although there were no legal impediments to either. Wages in the cash economy were determined by market factors.

The Constitution does not provide for the right to strike, and the Government has not addressed this issue. There were no strikes during the year.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits slavery or involuntary servitude except to punish crime. The law does not prohibit specifically forced and bonded labor by children; however, there were no reports that such practices occurred. Instances were reported of foreign workers, particularly domestic helpers and unskilled laborers, who were forced to accept jobs different from those for which they were recruited. The freedom of foreign workers to leave employment situations not to their liking may be hindered by verbal threats or the withholding of passports and return tickets to the country in which they were recruited. There were some reports of trafficking in persons (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution states that the Government shall protect children from exploitation. There is no minimum age for employment. Children typically were not employed in the wage economy, but some assisted their families with fishing, agriculture, and other small-scale family enterprises. By regulation, no foreigner under the age of 21 may be admitted into the country for employment purposes, and the Government enforced this regulation effectively.

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

e. Acceptable Conditions of Work.—The law sets the minimum wage at \$2.50 per hour. Foreign workers are not included under the minimum wage law. The minimum wage appeared to be sufficient to provide a decent standard of living for a worker and family. Anecdotal evidence indicated that unskilled workers for commercial firms (usually foreigners) were paid only \$1.50 to \$2.00 per hour. However, foreign workers usually were provided, in addition to their wages, basic accommodations and food at no or nominal cost. Although these wages were low, the country continued to attract large numbers of foreign workers from the Philippines and the PRC. There were more than 7,500 foreign nationals with work permits in the country; over half were from the Philippines, followed by the PRC, Korea, Indonesia, and Vietnam. Since 1998, the Philippine Embassy has been working closely with the Government's Labor Division to resolve problems created by falsified documents, and it interceded in several cases involving allegations of worker abuse during the year; it also assisted in the repatriation of several workers.

There is no legislation concerning maximum hours of work, although most businesses are closed on either Saturday or Sunday. The Division of Labor has established some regulations regarding conditions of employment for nonresident workers. The Division may inspect the conditions of the workplace and employer-provided housing on the specific complaint of the employees, but actual enforcement was sporadic. Working conditions varied in practice. No law specifically gives workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and no law protects workers who file complaints about such conditions.

As the number of foreign workers increased, there continued to be increasing numbers of reports of mistreatment of such workers by their employers. These incidents of alleged mistreatment were common knowledge among the general public but rarely were reported to law enforcement authorities by the foreign workers due to fear of their employers. Some types of mistreatment that foreign workers consistently complained about included physical and verbal abuse; being required to work overtime and on days off without pay; employers withholding monthly salary; employers and recruiters deducting the amount of airfare from salaries; and substandard housing. Some workers also complained that they were not provided sufficient food. The foreign workers most likely to be abused were those who worked under contracts and earned between \$150 and \$300 a month as domestic helpers, construction workers, farmers, waitresses, beauticians, and hostesses in karaoke bars and massage parlors. Under the terms of their contracts, they also were to be provided room and board and air travel from their home country and back after the termination of their contracts. It was generally assumed that legislators specifically exempted contract workers in the 1998 minimum wage bill to ensure a continued supply of low-cost labor in industries that the legislators often control.

During the year, over 200 PRC nationals were stranded when the garment factory that had employed them closed without paying the workers back wages and other monies owed them; the Government helped to arrange their repatriation.

f. Trafficking in Persons.—Neither the Constitution nor the law prohibits specifically trafficking in persons; however, there are laws against slavery, fraud, and prostitution. There were reports of women and some men being trafficked to the country from the PRC, Taiwan, and the Philippines to work in karaoke bars as hostesses and prostitutes, as domestics in private homes, and on construction sites. The freedom of foreign workers to leave employment situations not to their liking or into

which they were forced may be hindered by verbal threats or the withholding of passports and return tickets to the country in which they were recruited (see Section 6.c.).

There were press reports that women recruited in the country to work in a nursing home in the United States were exploited by their employer; the women charged that the nursing home paid them barely enough to live on, retaining the remainder of their wages for repayment of their travel and other claimed expenses. The Government assisted the women in leaving the employer; some returned to Palau at their own expense.

The Divisions of Immigration and Labor are involved in combating trafficking; however, the Government lacked funding and expertise to address the problem in practice. There was no formalized assistance available for victims, and victims normally were detained, jailed, or deported if they committed a crime such as prostitution. There were no NGOs that specifically addressed trafficking.

PAPUA NEW GUINEA

Papua New Guinea has a federal parliamentary system based on universal adult suffrage. Voters elect a unicameral parliament with 109 members from all 19 provinces and the National Capital District. The most recent general elections were in June 2002; there were localized instances of voter intimidation and violence, and influence peddling. A coalition government, led by Prime Minister Michael Somare, formed following the election. The judiciary is independent, but was hampered by inefficiency.

The Government has constitutional authority over the Defense Force, the Royal Papua New Guinea Constabulary, and the National Intelligence Organization. The constabulary maintains internal security, assisted from time to time by the Defense Force, including during elections. The Defense Force is responsible for external security. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority. Members of the constabulary committed a number of serious human rights abuses.

The economy is market based and relied heavily on agriculture and commodity exports. The population was approximately 5.5 million according to a 2001 United Nations Development Program (UNDP) estimate, and there are more than 800 distinct indigenous languages and tribes. Cyclical commodity prices, frequent changes of government complicating long-term economic planning, and lack of political will over a number of years to implement sound economic policies have resulted in persistent macroeconomic stagnation. Crime, especially in urban areas, was a critical problem. Approximately 85 percent of the population resided in isolated rural villages engaged in subsistence and smallholder agriculture. Real national and per capita incomes have declined in recent years, from \$4.9 billion in 1997 to approximately \$3 billion in 2002. During the year, the country received approximately \$170 million in development assistance from Australia, its largest trade partner and aid provider.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Police committed arbitrary or unlawful killings, used excessive force when arresting and interrogating suspects, and engaged in excessively punitive and violent raids. The Government on occasion investigated allegations of abuse and prosecuted those believed responsible. Prison conditions in several areas continued to be poor. Court understaffing reduced court hearings and increased pretrial detention periods. Police infringed on citizens' privacy rights. In the past, the Government limited freedom of assembly in the form of marches or demonstrations; there reportedly were no applications for permits for marches or demonstrations during the year. Extensive violence and discrimination against women were problems, and child abuse appeared to be a growing problem. Discrimination against persons with disabilities persisted, and violence among tribes in both urban and rural areas remained a serious problem.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The police killed several persons during the year. According to police reports, most killings occurred during gunfights with criminal suspects who were resisting arrest. There were no deaths in custody during the year.

All police shootings are investigated by the police department's internal affairs office and reviewed by a coroner's court. If the court finds that the shooting was unjustifiable or due to negligence, the police officers involved are tried. Families of persons killed or injured by police in such circumstances may challenge the coroner's finding in the National Court, with the assistance of the Public Solicitor's Office. Cases of accidental shootings of bystanders by police during police operations are also investigated and reviewed by a coroner's court.

During the year, the Government took no further action in the cases of police officers involved in the 2001 shootings of university students in Port Moresby, in which four students were killed, and did not release the results of an inquiry it ordered into the shootings.

In the past few years, due to the availability of modern weapons, there have been an increasing number of deaths resulting from violent tribal conflicts (see Section 5).

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution forbids torture and other cruel or degrading treatment or punishment; however, individual members of the police often beat suspects during arrests, interrogations, and in pretrial detention. In February, police reportedly assaulted two priests in Tapo during a search for criminals in the area. A photographer for The National newspaper reported that police punched and threatened him during a police confrontation with market vendors in Port Moresby in November (see Section 2.a.). In November and December, several persons alleged sexual abuses by police at Yangoru police station in East Sepik province. Although abuses such as citizens being permitted to beat suspects and the rape of female detainees by police reportedly did not occur during the year, no action was taken against offenders from previous years.

In March, a group of approximately 100 armed soldiers assaulted civilians in a Port Moresby suburb during a search for a thief.

Prison conditions were poor. According to the Minister for Correctional Services, as of year's end, there were more than 3,300 detainees, of whom 90 percent were male. During the year, 15 of the country's 17 jails were operational. The prison system suffered from serious underfunding. Prisons closed in 2000 because of life-threatening conditions remained closed, and there was no new construction. Some prisons in urban areas were seriously overcrowded. In rural areas, infrequent court sessions and bail restrictions for certain crimes exacerbated overcrowding (see Section 1.d.). Shortly after mid-year, eight prisoners died of either a food-transmitted or airborne infection at a provincial prison; the deaths spurred medical treatment of other infected inmates.

Male and female inmates were housed separately. There were no separate facilities for juvenile offenders; however, in some prisons, juveniles were provided with separate sleeping quarters. Pretrial detainees were not separated from convicted prisoners.

Prisoners were often confined in crowded conditions in police stations. Prison guards' living conditions were as poor as those of the prisoners. Prison escapes were common.

The Government permitted prison visits by human rights observers.

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

The country has a national police force, known as the Royal Papua New Guinea Constabulary. The force is headed by a commissioner, who reports to the Minister for Internal Security. A new commissioner was appointed in 2002 and replaced much of the police leadership in an effort to address corruption and inefficiency; however, corruption and impunity remained problems. During the year, some police officials were suspended for involvement in corruption or other criminal activity. Police effectiveness was impeded both by a serious lack of resources and by clan rivalries; within the constabulary, clan members often attempted to thwart remedial or disciplinary actions against fellow members of their clan. In December, the Cabinet directed the Minister for Internal Security to appoint a panel to review the administration and operations of the police force.

The Arrests Act of 2000 governs arrests. To make an arrest, police must have reason to believe that a crime was committed, is in the course of being committed, or will be committed. A warrant is not required, and police made the majority of arrests without one. Citizens may make arrests under the same standards as the police, although this was rare in practice. Police, prosecutors, or citizens may apply to a court for a warrant; however, police normally did so only if they believed it would assist them in carrying out an arrest.

Under the law, only National or Supreme Court judges may grant bail to persons charged with willful murder or aggravated robbery. In all other cases, the police or magistrates may grant bail. Arrested suspects have the right to legal counsel, to be informed of the charges against them, and to have their arrests subjected to judicial review. Access to counsel by detainees was not a problem during the year. Due to very limited police and judicial resources and a high crime rate, suspects often were held in pretrial detention for long periods of time. Pretrial remand is subject to strict judicial review through continuing pretrial consultations, especially at the National Court level; however, the slow pace of police investigations and occasional political interference or police corruption frequently delayed cases for months. Additionally, circuit court sittings were infrequent because of a shortage of judges and travel funds, delaying both the trial process and the rendering of decisions. Some detainees have been held in jail for more than 2 years because of the shortage of judges. During the year, development aid was provided for some training and education of the judiciary.

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

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The Supreme Court is the final court of appeal and has original jurisdiction on constitutional matters. The National Court hears most cases and appeals from the lower district courts established at the provincial level. There also are village courts headed by lay persons (generally local chiefs, known as “big-men”), who judge minor offenses under both customary and statutory law.

The legal system is based on English common law. The Constitution provides for due process, including a public trial, and the court system generally enforced these provisions. Defendants have the right to an attorney. The Public Solicitor’s office provides legal counsel for those accused of “serious offenses” who are unable to afford counsel. Serious offenses are defined as charges for which a sentence of 2 years or more is the norm. Defendants and their attorneys may confront witnesses, present evidence, plead cases, and appeal convictions. The shortage of judges created delays both in the process of trials and in the rendering of decisions (see Section 1.d.).

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The Constitution prohibits such action; however, there were instances of abuse. Police raids and searches of the homes or settlements of suspected criminals or other wrongdoers can be marked by a high level of violence and property destruction. Police units operating in highland regions sometimes used intimidation and destruction of property to suppress tribal fighting (see Section 5). During the year, there were reported instances of politicians directing or bribing police officials to arrest or intimidate individuals seen as political enemies or as possible whistle-blowers on corruption or misuse or theft of public assets.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. The combined circulation of 2 daily English-language newspapers was less than 60,000. A weekly newspaper in Melanesian Pidgin (the national “lingua franca”) also was published. All freely expressed independent coverage, including a variety of editorial viewpoints, and reported on controversial issues such as alleged abuses by police, cases of alleged corruption by government officials, and political opposition views. However, after the local press gave wide coverage to a critical report on the country released in March by the Australian Center for Independent Studies, members of both the executive branch and Parliament called for greater control of the press. The study’s co-author, a naturalized citizen, was called before a parliamentary committee and questioned about his patriotism and his sources and methods; some elected officials demanded that his citizenship be revoked. Nonetheless, the Government did not take any further action against him or place any new restrictions on press freedom during the year.

A reporter for The National newspaper charged that on November 28, one police officer punched him and smashed his camera and another threatened to hit him with an iron bar as he was attempting to photograph a confrontation between police and a group of vendors at a Port Moresby market. As of year’s end, the Government had taken no action against the officers involved. In August, the Bougainville correspondent of the Post-Courier newspaper reported that armed men claiming to be supporters of Harold Ke’ke, a militant leader in the Solomon Islands, entered the paper’s Bougainville office, vandalized office equipment, and threatened to burn down the office and kill the correspondent if the paper did not stop publishing arti-

cles about Ke'ke. The paper's office closed temporarily, but reopened later in the year.

The sole domestic television broadcaster, EMTV, is a subsidiary of an Australian broadcasting company; reception was limited to the capital and provincial centers. The two local cable companies were independent. The government-owned National Broadcasting Corporation operated two radio networks whose effectiveness was limited by inadequate funding and deteriorating equipment. Based in Port Moresby, a privately owned radio network, NAU-FM, was expanding to other areas of the country. There were a small number of local radio stations in cities other than Port Moresby.

Internet access was privately operated and becoming common in cities; the Government did not restrict it.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly; however, the Government often has limited this right in practice. Public demonstrations require police approval and 14 days' notice. Police, asserting a fear of violence from unruly spectators, rarely gave approval. Police reportedly received no requests for such approval during the year.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Associations wishing to open a bank account and conduct financial transactions must register. The process of registration was slowed by bureaucratic inefficiency, but there was no policy of denying registration. International affiliation of church and civic groups was permitted freely.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. It was the policy of the Department of Education to set aside 1 hour per week for religious instruction in the public schools. Religious representatives taught the lessons, and the students attended the class operated by the denomination of their parents' choice. Children whose parents did not wish them to attend the classes were excused.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice. Persons displaced by the 1989–2001 civil war between the central government and Bougainville rebels have returned to their homes.

Although a party to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, the Government has not enacted enabling legislation.

A reservation to the Convention regarding the issuance of travel documents restricted the travel of some persons from the Indonesian province of Papua (formerly Irian Jaya) living in a refugee camp in the western part of the country. At year's end, there remained approximately 120 persons from Indonesian Papua living in a camp in Vanimo, near the Indonesian border. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and did not force any persons to return to countries where they feared persecution. In practice, the Government provides temporary protection to certain persons who fall outside the definition of the 1951 Convention and its 1967 Protocol. During the year, the Government provided protection for several hundred persons who fled the Indonesian province of Papua. Several hundred more lived in informal, unrecognized camps adjacent to the border with Indonesia. The Government cooperated with the office of the UNHCR in assisting the Indonesian Papuans living in the East Awin refugee camp in Western Province and has administered the camp since 1996, when the UNHCR office closed. The Government has a policy of limited integration for Indonesian Papuans with certain skills or other qualifications, who were accorded limited residency status and permitted to leave the refugee settlement. Those who violated conditions of their residency could be repatriated, but there were no known forced returns of Papuans to Indonesia. Several thousand persons lived in tribes along the borders and moved freely between the two countries, although border tensions increased in 2002.

At year's end, one detainee remained in the Manus Island detention camp, which had held asylum seekers interdicted at sea by Australia; the detainee was awaiting a decision by Australia on his transfer to a facility outside the country.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Voters elect a unicameral parliament with 109 members from all 19 provinces and the National Capital District.

Any citizen may stand for election. Because of the high number of candidates for Parliament, some members have won election with less than 10 percent of the total votes cast.

The most recent general election was held in June 2002. Of the 109 seats in Parliament, 77 changed hands. A coalition government, led by Prime Minister Michael Somare, formed following the election. Fraud, voter intimidation, theft of ballot boxes, and violence, including rape and murder, marred the election in some parts of the country. As a result, the polls were declared failed in six electoral districts in the Southern Highlands; new elections, financed by Australia and accompanied by very little violence, were held successfully in April.

The law provides that a losing candidate may dispute the election of the winning candidate by filing a petition with the National Court. Such petitions may question actions of the candidate and his supporters or allege malfeasance by the election officials. The procedure is fair, but time consuming and expensive both to initiate and to defend. Following the 2002 election, 83 such petitions were filed against winning candidates. A number of the petitions were successful, and new elections were held in those cases.

In August 2001, the Government signed a peace agreement with Bougainville rebels and progress toward the establishment of an autonomous Bougainville government has been made. On June 30, the U.N.-led Peace Monitoring Group in Bougainville ceased operations. A Bougainville autonomous interim authority was established as a governing body pending approval of a new constitution and the holding of elections, scheduled for 2004. The U.N. Observer Mission in Bougainville, originally scheduled to close at year's end, was extended for 60 days, with provision for a smaller, 2-person office to remain for an additional 4 months.

The weapons-surrender program mandated in the August 2001 Bougainville peace agreement and carried out under U.N. supervision was declared successful and concluded in the third quarter of the year.

One woman was elected to the 109-seat Parliament in the 2002 elections, compared with two in the previous Parliament. She was named the Minister for Welfare and Social Development, the only Cabinet position held by a woman. There were no female Supreme Court justices or provincial governors.

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

There were no official barriers to the formation of human rights groups. The Government cooperated with human rights nongovernmental organizations (NGOs), both domestic and international, but at times was slow in responding to their requests for information. The International and Community Rights Advocacy Forum, an umbrella group, concentrated on human rights and the environment during the year.

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

The Constitution provides for equal protection under the law irrespective of race, tribe, place of origin, political opinion, color, creed, religion, or sex. Despite these constitutional and other legal provisions, women often faced discrimination. Geographic diversity prevents any one tribe or clan from dominating the country. The democratically elected government, based on loose coalitions, has consistently avoided favoring any group. Skirmishes and conflicts tended to be based on disputes between clans over issues such as boundaries, land ownership, and injuries and insults suffered by one clan at the hands of another; they were not ethnically based. In the past, clan and tribal warfare was ritualized and fought with traditional weapons; the availability of firearms has made such conflicts much deadlier.

There were no reports of government discrimination against persons with HIV/AIDS, although there were reports that companies have separated HIV positive employees after learning of their condition.

Women.—Violence against women, including domestic violence and gang rape, was a serious and prevalent problem. Domestic violence was common and is a crime. However, since most communities viewed domestic violence as a private matter and few victims pressed charges, prosecutions were rare. Traditional village mores, which served as deterrents, were weakening and were largely absent when youths moved from their village to a larger town or to the capital. Although rape is punishable by imprisonment and sentences were imposed on convicted assailants, few rapists were apprehended. The willingness of some communities to settle incidents of rape through material compensation rather than criminal prosecution made the crime difficult to combat. Violence committed against women by other women frequently stemmed from domestic disputes. In areas where polygyny was still customary, an increasing number of women were charged with the murder of another

of their husband's wives. According to one report, 65 percent of women in prison were there for attacking or killing another woman.

The Constitution and laws have provisions for extensive rights for women dealing with family, marriage, and property issues. Some women have achieved senior positions in business, the professions, and the civil service. However, traditional patterns of discrimination against women persisted. Many women, even in urban areas, were considered second-class citizens. Village courts tended to impose jail terms on women found guilty of adultery, while penalizing men lightly or not at all. Circuit-riding National Court justices frequently annulled such village court sentences. By law, a district court must endorse orders for imprisonment before the sentence is imposed. Polygyny and the custom in many of the country's tribal cultures of paying a bride price tended to reinforce the view that women were property. In addition to the purchase of women as brides, women also sometimes were given as compensation to settle disputes between clans. The courts have ruled that such settlements denied the women their constitutional rights.

According to statistics published in the UNDP's 1999 country report on human development, women were gaining rapidly in literacy and education. Adult literacy rose to 73 percent; 65 percent of women were literate, compared with 86 percent of men. However, there were approximately 15 percent fewer girls in primary schools than boys. According to Ministry of Health statistics, the maternal mortality rate was 370 deaths per every 100,000 live births during the period 1985–1997.

Prostitution is illegal; however, the laws were not enforced and the practice was widespread. Although sex tourism existed, it was not common. Sexual harassment is not illegal, and it was a widespread problem. There is an Office of Women's Affairs in the Office of Church and Family Services of the Ministry of Provincial Affairs; however, due to funding constraints, it was not active during the year and it had little effect on the Government's policy toward women.

Children.—Most independent observers agreed that the Government did not dedicate significant resources to protecting the rights and welfare of children. Most programs to protect and develop youth and children were operated by NGOs and religious organizations. In the past, children were well cared for within the family and under traditional clan and village controls. However, preliminary, small-scale studies indicated that this situation has changed over the last decade, especially in areas where households have become isolated from the extended family support system and depend on the cash economy for a livelihood.

According to a report prepared by the Government and UNICEF, sexual abuse of children was believed to be frequent. Because of the geographic isolation and remoteness of many villages, malnutrition and infant mortality rates were very high. More than 60 of every 1,000 children born did not survive their first year. Primary education was not free, compulsory, or universal; substantial fees were charged. In 1999, the Asian Development Bank reported a primary school enrollment rate of 91 percent for boys and 78 percent for girls; many children did not progress further. Government provision of free medical care for its citizens, including children, was no longer available due to budget cuts and deteriorating infrastructure, particularly in rural areas. As a result, many children did not have effective medical care.

Persons with Disabilities.—Through the National Board for the Disabled, the Government provided funds to a number of NGOs that provided services to persons with disabilities. The Government did not provide programs or services directly. Apart from those provided by the traditional clan and family system, services and health care for persons with disabilities did not exist in several of the country's provinces. There was no legislation mandating accessibility to buildings. Persons with disabilities faced discrimination in education, training, and employment. Most persons with disabilities did not find training or work outside the family structure. The Government provided free consultation and treatment for persons with mental disabilities; however, such services were rarely available outside major cities.

National/Racial/Ethnic Minorities.—Centuries-old animosities among isolated tribes, a persistent cultural tradition of revenge for perceived wrongs, and the lack of police enforcement sometimes resulted in violent tribal conflict in the highland areas. The number of deaths in the last few years has risen due to the availability of modern weapons.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right to form and join labor unions, subject to registration by the Department of Industrial Relations. The Government did not use registration to control unions. However, an unregistered union has no legal standing with the Department of Labor and Employment or before the courts and thus cannot operate effectively. About half of the 250,000 wage earners

in the formal economy were organized and were members of approximately 50 trade unions. Most of the unions representing private-sector workers were associated with the Trade Unions Congress. The Public Employees Association represented an estimated 23,000 persons employed by national, provincial, and municipal governments, or one-third of the public sector work force. The law prohibits anti-union discrimination by employers against union leaders, members, and organizers; however, it was enforced selectively. Unions were independent of the Government and of political parties. Unions may affiliate freely with international organizations, and they have done so.

b. The Right to Organize and Bargain Collectively.—The Constitution provides for the right to engage in collective bargaining and to join industrial organizations, and workers exercised these rights in practice. Under the law, the Government has discretionary power to cancel arbitration awards or declare wage agreements void when they are contrary to government policy. The International Labor Organization (ILO) criticized this law. The Department of Industrial Relations and the courts are involved in dispute settlement. Wages above the minimum wage are set through negotiations between employers and employees or their respective industrial organizations. The Constitution provides for the right to strike, and there were no government efforts to hinder either public- or private-sector unions from exercising this right. The law prohibits retaliation against strikers; however, it was not always enforced. Employees of some government-owned enterprises went on strike on several occasions during the year, primarily to protest against privatization policies. These strikes were brief and ineffective.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution forbids slavery and all forms of forced, compulsory, or bonded labor, including that performed by children, and there were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Employment Act establishes the minimum working age as 18. However, children between the ages of 11 and 18 may be employed in a family-related business or enterprise provided they have parental permission, a medical clearance, and a work permit from a labor office. This type of employment was rare, except in subsistence agriculture. The Government has ratified ILO Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work.—The Minimum Wage Board, a quasi-governmental body with labor and employer representatives, sets minimum wages for the private sector. The national youth wage, for new entrants into the labor force between 16 and 21 years of age, was set at 75 percent of the adult minimum wage. Although it is above the national per capita income, the adult minimum wage of \$6.55 (22.96 kina) per week, unchanged since 1992, did not provide a decent standard of living for a worker and family who lived solely on the cash economy. During the year, as has been the case annually for nearly a decade, the Minimum Wage Board recommended a large increase in the minimum wage; however, the Government disagreed, and no increase was implemented.

The law regulates minimum wage levels, allowances, rest periods, holiday leave, and overtime. Although the Department of Labor and Employment and the courts attempted to enforce the minimum wage law, enforcement was not effective. The law limits the workweek to 42 hours per week in urban areas and 44 hours per week in rural areas. The law provides for at least one rest period of 24 consecutive hours every week; however, enforcement was lax. Enforcement of the Industrial Health and Safety Law and related regulations is the responsibility of the Department of Labor and Employment. The law requires that work sites be inspected on a regular basis; however, due to a shortage of inspectors, inspections took place only when requested by workers or unions. Workers' ability to remove themselves from hazardous working conditions varied by workplace. Unionized workers had some measure of protection in such situations.

The law protects legal foreign workers. The few illegal foreign workers lacked full legal protection.

f. Trafficking in Persons.—While the Constitution does not prohibit trafficking in persons, there was no evidence that persons were trafficked to, from, or within the country. However, over the last 4 years, the Government investigated allegations of corruption among officials dealing with passport issuance and immigration. These allegations centered on the organized circumvention of immigration controls; often this involved the issuance outside of regulations of residence and work permits for Chinese or South Asian nationals migrating to the country. Nevertheless, there was

concern that the country may be used as a route for trafficking in persons to Australia.

PHILIPPINES

The Philippines is a democratic republic with an elected president, an elected bicameral legislature, and a fractious but functioning multiparty system. Although the executive traditionally sets the political agenda, the legislature plays an active role in policy formation. The Constitution provides for an independent judiciary; however, the judicial system suffered from corruption and inefficiency.

The President is Commander-in-Chief of the Armed Forces of the Philippines (AFP). The Department of National Defense directs the AFP, and the Department of Interior and Local Government has authority over the civilian Philippine National Police (PNP). The AFP, which has primary responsibility for counterinsurgency operations, also has duties in traditional law enforcement efforts, including the pursuit of kidnappers, whose actions remained a chronic criminal problem. Local civilian militias help provide security in certain conflict areas. The civilian authorities generally maintained effective control of the security forces; however, some elements of the security forces, including police, soldiers, and local civilian militias, committed human rights abuses; and, on July 26 and 27, a group of junior AFP officers attempted a mutiny.

The country has a market-based, mixed economy. The service sector accounted for approximately 47.5 percent of gross domestic product, the industrial sector 34.3 percent, and agriculture 18.2 percent. However, agriculture accounted for approximately 36.7 percent of total employment. Overseas worker remittances, estimated at \$7 billion per year, and tourism were important sources of foreign exchange. The population is nearly 80 million with an annual growth rate of 2.36 percent. According to the most recent Family Income and Expenditure Survey, the richest 30 percent of families earned 66.3 percent of national income, while the poorest 30 percent received approximately 7.9 percent. The incidence of poverty (measured as the ratio of those below the official poverty threshold to the total population) worsened during the year and approached 33.4 percent. Poverty was more severe in rural areas, with an estimated 54 percent of the rural population unable to meet basic needs. Poverty in urban centers was approximately 25 percent.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Some elements of the security services were responsible for arbitrary and unlawful and, in some cases, extrajudicial killings, disappearances, torture, and arbitrary arrest and detention. Other physical abuse of suspects and detainees as well as police, prosecutorial, and judicial corruption remained problems. The constitutionally mandated Commission on Human Rights (CHR) described the PNP as the worst abuser of human rights. Police and local government leaders at times appeared to sanction extrajudicial killings and vigilantism as expedient means of fighting crime and terrorism. Prison conditions were harsh. Judges and prosecutors remained poorly paid, overburdened, susceptible to corruption and the influence of the powerful, and often failed to provide due process and equal justice. Long delays in trials were common. The Supreme Court undertook efforts to ensure speedier trials and to sanction judicial malfeasance, and launched a 5-year program to increase judicial branch efficiency and raise public confidence in the judiciary. Despite efforts by reformist leaders in all three branches of the Government to strengthen rule of law and protection of human rights, a fundamental and pervasive weakness in the rule of law contributed to a widely held belief that official justice is beyond reach. Some local military and police forces harassed human rights activists. Violence against women and abuse of children continued to be problems. Discrimination against Muslims persisted. The law provides for worker rights, but implementation and enforcement were not always effective. Child labor continued to be a problem, although the Government and nongovernmental organizations (NGOs) continued to give the problem increased attention. The use of underage workers in domestic servitude persisted. Child prostitution continued to be a problem, as did trafficking in women and children.

A large, well-funded Communist insurgency continued to operate in various regions of the country; its military arm, the terrorist New People's Army (NPA), committed numerous human rights violations, including political assassinations, kidnappings, and torture. The small, terrorist Abu Sayyaf Group (ASG) committed some kidnappings and killings, including summary beheadings of hostages and local residents. The NPA and ASG continued to use children both as soldiers and as non-combatants.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Police forces and anti-government insurgents committed a number of arbitrary and unlawful killings. The CHR investigated 92 complaints of killings for the first 6 months of the year, the same number as in the first 6 months of 2002. The CHR included killings by anti-government insurgents in its investigations. The NGO Task Force Detainees of the Philippines (TFDP) documented six summary executions of civilians by government forces and insurgents through June.

In combating criminal organizations, security forces sometimes resorted to summary execution of suspects, or “salvaging.” Police and military spokesmen at times explained these killings as the unavoidable result of a shoot-out with suspects or escapees. Statements by various local government officials have condoned extrajudicial killings as an acceptable means to fight crime. The CHR suspected PNP members in a majority of the human rights violations involving deaths that it investigated through June.

One of the most prominent cases was the April 22 abduction and killing in Oriental Mindoro of two members of a team of human rights advocates investigating reports of abductions allegedly perpetrated by the AFP. The Justice Department ordered the surrender of three soldiers believed responsible, but the military unit linked to the murders reportedly was not cooperating with the investigation. In November, the Government filed murder charges against two soldiers and three militiamen, based on evidence presented by the parents of one of the victims and findings of the regional office of the CHR.

There have been deaths as a result of military hazing in recent years, including in 2003 (see Section 1.c.).

On October 7, the Supreme Court dismissed various procedural appeals and remanded to a regional trial court the 1995 Kuratong Baleleng case, in which the police are accused of summarily executing 11 suspected members of a criminal gang. In November, the regional trial court judge dismissed the case, citing lack of evidence. Prosecutors said they would appeal. An opposition senator implicated in these killings accused the Government of pursuing the case for political reasons.

The principal suspect in the April 2002 killing of two human rights activists in Oriental Mindoro Province did not appear in court as scheduled. In November, the U.N. Human Rights Committee expressed concern over extrajudicial killings and asked to be informed of developments related to this case.

In March, authorities found four indigenous Tausug villagers beheaded after a clash between suspected ASG members and Philippine troops in Indanan, Sulu (see Section 1.g.). On April 16, four minors and five others were killed in Kananga, Leyte (see Section 1.g.).

In April, a 16-year-old boy in North Cotabato was brutally killed and disemboweled by persons suspected of being members of a pro-government militia (see Section 1.c.).

The struggle for political power, particularly in rural areas, sometimes involves killings. During the year, several candidates and political supporters of local officials died as a result of political violence. In February, two armed men ambushed and killed the brother of a former Maguindanao governor. The victim’s family believed that the killing was politically motivated. In April, police named a former army sergeant as the principal suspect in the killings and filed charges against him. The suspect remained at large.

In March, unknown persons shot and killed the secretary of a municipal official in South Luzon who was allegedly at odds with the municipal councilors. In May, armed men in Northern Luzon killed a village chief who supported a losing congressional candidate. The victim reportedly was the municipal chairman of a leftwing organization. On May 19, in what police believed was a political vendetta, two men killed a town councilor in South Luzon.

On June 22, suspected vigilantes killed the mayor of a Pangasinan town as he left the town cockpit. Authorities blamed the Communist New People’s Army for the attack but the NPA denied the accusation. On June 26, suspected Moro National Liberation Front (MNLF) members ambushed and killed the mayor of Zamboanga Sibugay. On June 28, a mayor in Compostela Valley Province, a former army intelligence officer, was shot and killed by suspected NPA members.

In January, President Macapagal-Arroyo ordered the arrest of the vice mayor and eight other persons allegedly involved in the December 24, 2002 bombing in Datu Piang that killed Mayor Saudi Ampatuan and 16 of his followers. In June, police arrested the vice mayor and two of his companions for possession of an explosive

material. The vice-mayor was put under the custody of the PNP in General Santos City. In October, he was killed reportedly in an escape attempt.

Journalists were also targets for murder, and during the year seven journalists were killed. No one has been convicted in these cases (see Section 2.a.).

President Macapagal-Arroyo ordered the creation of an independent commission to probe the March 4 Davao City airport bombing and April 2 seaport bombing that killed 38 persons and injured 200. Some government officials suspected the Moro Islamic Liberation Front (MILF) or MILF-related parties were responsible for the bombings, but some persons, including disgruntled members of the military, suspected the AFP.

The terrorist Abu Sayyaf Group kidnapped and tortured civilians during the year and summarily beheaded some of its captives (see Section 1.b.). On June 26, suspected ASG members beheaded three persons in a remote farming village in Zamboanga City. ASG members reportedly used the victims as human shields during a clash with government forces. In August, suspected Abu Sayyaf members killed a man who was delivering ransom to them.

Communist insurgents, mainly from the NPA, killed political figures, military and police officers, and civilians, including suspected military and police informers and foreign tourists. Peace negotiations between the Government and the political arm of the Communist Party, the National Democratic Front (NDF), made no significant progress.

In January, military authorities excavated the remains of 10 persons, including that of a kidnapped priest, in a mass grave near a former NPA headquarters in Tarlac. In March, in Pampanga authorities discovered another mass grave, believed to be of victims of an NPA breakaway faction, which reportedly killed persons who refused to yield to extortion and other demands.

On January 23, four armed men killed a former NPA commander who had become a security consultant for a number of government agencies. Communist guerillas claimed responsibility for the killing.

On February 14, members of a suspected NPA hit squad killed a Laguna chief of police. In March, the Communist Party of the Philippines (CPP) reportedly stated that its armed wing, the NPA, had killed 21 government troops, including the Laguna police chief.

In May, suspected NPA members abducted and killed a leader of a leftist NGO who had campaigned against the NPA practice of collecting "revolutionary taxes" (i.e., extortion).

On June 26, at least 17 people, 11 of whom were members of a Civilian Armed Forces Geographical Unit (CAFGU), were killed when the NPA attacked a remote army camp in the central Philippines.

In January, the PNP filed criminal charges against a top communist leader in connection with the 2001 killing of two policemen, a Congressman, and his bodyguard.

On March 6, the MILF captured five paramilitary men and two soldiers in Lanao del Norte and held them as "prisoners of war." Reportedly, one of the captives subsequently was killed. Several weeks later, the MILF Central Committee ordered the release of the captives to the International Committee of the Red Cross (ICRC).

In May, police arrested two former MILF members in connection with the May 10 bombing in Koronadal, Southern Mindanao that killed 13 and wounded at least 26 primarily civilian persons. The MILF had denied any involvement. Also in May, a ranking MILF leader, who was believed to be a special operations bomb expert responsible for a Manila bomb attack that killed 22 civilians, was arrested along with an Egyptian Islamic missionary. In September, the suspect withdrew his guilty plea. In December, government attorneys asked a Manila trial court to transfer the case to another venue.

The secessionist MILF reportedly burned down more than 1,000 houses of villagers in Central Mindanao and killed a number of civilians. In February, suspected MILF members killed 11 persons in Zamboanga del Norte. In April, unidentified men the AFP suspected were MILF members hurled a grenade into an outdoor food stand in North Cotabato, killing eight.

b. Disappearance.—Government forces were believed responsible for disappearances. The domestic NGO Families of Victims of Involuntary Disappearances (FIND) reported 21 disappearances during the year.

There were no developments in the February 2002 disappearances of two Bayan Muna members in Aurora Province, or in the February 2002 disappearances of two Bayan Muna members in Nueva Ecija Province. The local media reported that the two Nueva Ecija abductees were forcibly taken by a group of soldiers.

FIND reported that 1,082 cases of disappearance remained unsolved; the majority of these cases date from 1983–85, the peak of the agitation against the Marcos dic-

tatorship, and 1987–89, the height of an Aquino administration crackdown on insurgents.

The courts and the police failed to address adequately complaints of victims' families concerning past disappearances in which government security forces were suspected. Disappearance itself is not a crime under the law; evidence of a kidnapping or killing is required in order for charges to be filed. FIND and Amnesty International's (AI) Manila office continued to support the efforts of victims' families to press charges; however, in most cases evidence and documentation were unavailable. Convictions were rare, and FIND reported that only 14 cases were pending in court at year's end. Judicial inaction on the vast majority of disappearances contributed to a climate of impunity that continued to undermine public confidence in the justice system. On April 6, unidentified gunmen in Davao del Sur abducted an Arabic teacher. From April to June, six Muslims were abducted from Davao City and Cotabato City. Some human rights NGOs suspected police involvement.

In June, armed men believed to belong to a drug syndicate abducted a local government official from Tawi-Tawi who had been campaigning against drug trafficking. His captors later freed him unharmed. At year's end, there were no arrests in the case.

In April, two women from a group abducted by ASG in August 2002 escaped. Also in April, one of four Indonesian sailors abducted by the ASG was found alive. A foreign missionary accused a Philippine army general of demanding a 50 percent cut of the ransom paid to the ASG for her and two other former hostages. The military denied the charges.

According to anticrime watchdogs, kidnapping cases doubled in April compared to the same period the previous year. Statistics from the Police Anti-Crime and Emergency Response Task Force, the police anti-crime body formed to fight kidnapping and illegal drugs, listed a total of 29 abduction cases from January to May, one less than the 30 recorded during the same period in 2002. The police reportedly solved 11 of the 29 cases. Many instances of kidnapping are not reported.

In April, armed men suspected to be anti-communist vigilantes abducted and killed two members of a team of human rights advocates that went to Oriental Mindoro to look into prior reports of abduction by military men (see Section 1.a.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture, and evidence obtained through its use is inadmissible in court; however, members of the security forces and police continued to use torture and to abuse suspects and detainees. The CHR provides the police with mandatory human rights training, including primers on the rights of suspects, and higher level PNP officials seemed more receptive to respecting the human rights of detainees; however, rank-and-file awareness of the rights of detainees remained inadequate.

TFDP stated that torture remained an ingrained part of the arrest and detention process. Common forms of abuse during arrest and interrogation reportedly included striking detainees and threatening them with guns. Less common forms included the placing of plastic bags over heads to deprive the detainee of air. TFDP reported that arresting officers often carried out such beatings in the early stages of detention.

Within the AFP, the CHR observed greater sensitivity to the need to prevent human rights violations. Officers with human rights violations cannot be promoted. Nevertheless, abuses still occurred. Human rights activists complained of abuses by security forces against suspected ASG and NPA members in captivity. According to the Moro Human Rights Center, members of the AFP frequently beat ASG suspects.

AI reported in January that torture and ill treatment persisted and expressed concern about the limitations of the CHR in protecting torture complainants. Acts of torture fall under the offense of "physical injuries" defined in the Revised Penal Code as wounding, beating, or assaulting another person resulting in injuries with no intention to kill. In April, human rights lawyers and advocates urged the Government to ratify U.N. statutes and declarations that would criminalize torture.

Hazing activities at the Philippine Military Academy (PMA) have led to deaths. In January, the chief of the Philippine National Police Academy (PNPA) and three other school officials were fired following the death of a cadet. Other cases remain unresolved, including that of a female military cadet who died in 2001. The Government has undertaken measures to combat hazing, including separating younger cadets from upperclassmen and posting officers in strategic areas within the school premises.

The CHR reported 6 cases of torture from January to June. TFDP reported 11 cases for the same period.

In March, four indigenous and two Muslim farmers in North Cotabato reported that soldiers and CAFGU elements arrested and tortured them on suspicion that they were members of the MILF.

In April, a 14-year-old Muslim boy in North Cotabato was tortured by persons suspected of being members of a pro-government militia on suspicion that he was a member of the MILF. His 16-year-old cousin, with him at that time, was killed and disemboweled. The 14-year-old victim survived by faking death. During the same month, nine Muslim farmers in Maguindanao were ambushed and tortured. Local government officials and the military denied that an anti-Muslim vigilante group committed these acts.

In May, PNP officers reportedly tortured and forced confessions from five suspects in the March 4 Davao bombing case. TFDP stated that the suspects claimed they were beaten and threatened with explosives.

Also in May, the CHR reportedly cleared soldiers who had been charged with torture of six farmers in Negros Occidental in November 2002.

In January, the Department of Justice reopened the investigation of a case in which 5 persons suspected of murder claimed that a high-ranking police officer and 25 accomplices tortured them. By year's end, there were no further developments.

Prison conditions were harsh. Provincial jails and prisons were overcrowded, had limited exercise and sanitary facilities, and provided prisoners with an inadequate diet. The Government reported that jails in the metropolitan Manila area were operating at 203 percent of capacity. A significant percentage of the inmates were detainees unable to post bail. Administrators budgeted a daily subsistence allowance of about \$0.63 (P35) per prisoner. Prison inmates often depended on their families for food because of the insufficient subsistence allowance, and the need to bribe guards to receive food rations.

As a result of the overcrowding caused by an increase in the number of imprisoned drug offenders, some inmates took turns sleeping while others slept on their feet. The slow judicial process, aggravated by a lack of sitting judges to adjudicate cases, exacerbated the problem. Some prison wardens reportedly allowed wives or children to move in with inmates or stay in the prison compound because they could help feed the prisoners. The Manila city jail was poorly ventilated and, at times, lacked potable water.

According to Department of Interior and Local Government (DILG) records, there are an estimated 53,600 inmates in overcrowded detention centers nationwide, up by 4,000 from 2002. A detention facility for all inmates would cost an estimated \$20 million (P1,100,000,000), but the Bureau of Jail Management and Penology (BJMP) had an annual budget of \$400,000 (P22 million).

According to regulation, male and female inmates are to be held in separate facilities, overseen by guards of the same sex in national prisons; however, there have been anecdotal reports that these regulations were not enforced. In provincial and municipal prisons, male guards sometimes supervised female prisoners, directly or indirectly. In Bureau of Immigration (BI) detention facilities, male and female inmates were segregated by sex, but male guards oversaw both sexes. Although prison authorities attempted to segregate children, in some instances they were held in facilities not fully segregated from adult male inmates.

There were reports of widespread corruption among guards. Guards demanded that prisoners pay to receive food, to use sanitary facilities, and to avoid beatings by other prisoners. Jail administrators reportedly delegated to senior inmates authority to maintain order. The CHR and TFDP reported that beatings by prison guards and other inmates were common, but that prisoners, fearing retaliation, refused to lodge complaints. Corruption appeared to be a problem at higher levels of authority within the prison system as well. Favored inmates reportedly enjoyed access to outside contacts, enabling them to trade in prostitution and drugs.

In April, President Macapagal-Arroyo ordered the immediate relief of all personnel at Cebu City jail in response to reports of massive corruption there. In May, a legal officer from the Bureau of Corrections was fired reportedly for extorting money from inmates.

There were reports that guards abused prisoners. In 2001, AI reported that women in police custody were particularly vulnerable to sexual and physical assault by police and prison officials. Victims often were afraid to report incidents (see Section 5). In May, police suspended three officers for allegedly raping a 20-year-old jail inmate. Some detainees at BI detention centers reportedly gained their release by making cash payments to guards.

From January to July, the PNP recorded a total of 28 successful prison escapes encompassing 135 prisoners, including a high-profile escape by three suspected terrorists. Police blamed the escapes on lenient security and the poor quality of detention facilities.

International monitoring groups and the ICRC are allowed free access to jails and prisons.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution requires a judicial determination of probable cause before issuance of an arrest warrant and prohibits holding prisoners incommunicado or in secret places of detention; however, police in a number of cases arrested and detained citizens arbitrarily. The CHR investigated 72 cases of illegal arrest and detention through June—an increase of 24 percent from the number recorded during the same period in 2002. The TFDP documented 36 cases of politically motivated arrests by the Government through July. TFDP and the NGO Philippine Human Rights Information Center (Philrights) both estimated the total number of political prisoners in the country at approximately 200. Many of these individuals were charged with common crimes. There were allegations that some of these individuals remained in custody for periods longer than their stated jail terms. The Government denied that there were any political detentions or detainees (see Section 1.e.).

Detainees have the right to a judicial review of the legality of their detention and, except for offenses punishable by a life sentence or death (when evidence is strong), the right to bail. Authorities are required to file charges within 12 to 36 hours of arrests made without warrants, depending on the seriousness of the crime. Due to the slow judicial process, lengthy pretrial detention remained a problem (see Section 1.e.).

The National Police Directorate for Investigation and Detective Management reported that 53 erring policemen were dismissed from service from January through October. Of the 2,882 administrative cases filed against PNP officers and personnel, 1,407 had been resolved, 693 were still under preliminary investigation, and 782 underwent summary hearings.

In March, soldiers arrested four farmers in Bohol Province in Central Visayas and accused them of killing a “barangay” (neighborhood or community) captain and his brother. A congressional representative claimed the arrests were arbitrary and called for an investigation.

In June, the AFP arrested two female activist leaders and charged them with attempted multiple murder and several bombing activities. A human rights group said the two women were falsely accused. After 6 weeks of detention, the two women were released due to insufficient evidence.

There were reports during the year of arrests of foreign businessmen on immigration charges to pressure them as part of commercial disputes.

The terrorist NPA, as well as some Islamic insurgent groups, were responsible for a number of arbitrary detentions, often in connection with informal courts set up to try military personnel, police, local politicians, and other persons for “crimes against the people” (see Section 1.e.).

Forced exile is illegal, and the Government did not use it.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the judicial system suffered from corruption and inefficiency. Personal ties and sometimes venality, undermined the commitment of some government employees to ensure due process and equal justice. The result was impunity for some wealthy and influential offenders, and widespread skepticism that the judicial process would produce fair outcomes. In October, a group of mostly opposition congressmen initiated an impeachment complaint against the Chief Justice, allegedly for misusing public funds, but reportedly as retaliation for decisions against the interest of politically and economically powerful individuals. There were reports that some congressmen accepted money to sign the complaint. In November, the complaint was withdrawn after the Supreme Court ruled it unconstitutional, and the lower House of Congress accepted the Supreme Court decision.

On October 23, the President signed into law a measure raising judicial salaries by 100 percent over 4 years. Low pay was one of the factors that rendered both judges and prosecutors susceptible to corruption. There were many allegations that judges and witnesses accepted money or other bribes. The President and the Chief Justice of the Supreme Court expressed their desire to root out corrupt practices, and both warned judges and prosecutors not to abuse their authority. A high-profile campaign against judicial corruption showed some progress.

In February, the Supreme Court dismissed a Pampanga municipal trial court judge for extorting money from a lawyer with a pending case and fined a retired judge for deciding a case, which was no longer under his jurisdiction. The Supreme Court threatened to sanction lower court judges who failed to hear pending cases on time.

In March, a Dumaguete City Regional Trial Court (RTC) judge was convicted for soliciting money from a plaintiff in exchange for a favorable ruling in a civil case

pending before his bench; a Pampanga judge was fined for ignoring the rules on preliminary investigation; and in Negros Occidental, a Municipal Trial Court (MTC) judge was fined for imposing excessive bail on a daughter of a poor fisherman accused of stealing.

In April, a Cebu City judge was sentenced to from 4 to 9 years in prison for demanding money in exchange for a favorable decision. A few weeks later, agents of the National Bureau of Investigation arrested a Tarlac municipal trial court judge after he allegedly accepted marked bribe money. The judge later committed suicide.

In May, the Supreme Court suspended a judge from law practice for 1 year and imposed a fine for violating an order that barred him from accepting legal consulting work. Also in May, an Albay RTC judge was dismissed for releasing \$910,000 (P50 million) worth of suspected smuggled rice in 2001, and a Caloocan City RTC judge was fined for refusing to implement a prior judgment.

In June, a Pasig RTC judge was investigated for allowing a Korean to post bail despite being caught in possession of more than a kilo of illegal drugs, and the Department of Justice (DOJ) ordered the prosecution of a Davao City judge for allegedly using a stolen vehicle.

In July, the Supreme Court dismissed a Zamboanga del Sur provincial judge for disregarding the order of the Court of Appeals regarding a land dispute case.

Judges continued to be assaulted and killed in the line of duty. On May 17, unidentified men shot and killed a provincial municipal circuit trial court judge in front of his residence in Kalinga, Apayao. The judge had been involved in a legal conflict with a prominent family. In July, a Cebu RTC judge survived an ambush.

The national court system consists of four levels: Local and regional trial courts; a national Court of Appeals divided into 17 divisions; a 15-member Supreme Court; and an informal local system for arbitrating or mediating certain disputes outside the formal court system. The "Sandiganbayan," the Government's anticorruption court, hears criminal cases brought against senior officials. A Shari'a (Islamic law) court system, with jurisdiction over domestic and contractual relations among Muslim citizens, operates in some Mindanao provinces.

The Constitution provides that those accused of crimes be informed of the charges against them, have the right to counsel, and be provided a speedy and public trial. Defendants are presumed innocent and have the right to confront witnesses against them, to present evidence, and to appeal convictions. The authorities respected the right of defendants to be represented by a lawyer, although poverty often inhibited a defendant's access to effective legal representation. Skilled defense lawyers staffed the Public Attorney's Office (PAO), but their workload was large and resources were scarce. The PAO provides legal representation for all indigent litigants at trial; however, during arraignment, courts may at their option appoint any lawyer present in the courtroom to provide counsel to the accused.

According to the Constitution, cases should be resolved within set time limits once submitted for decision: 24 months for the Supreme Court; 12 months for the Court of Appeals; and 3 months for lower courts. However, these time limits are not mandatory and, in effect, there are no time limits for trials.

The judicial system was unable to ensure expeditious trials for detained persons. Because of numerous technical delays and the frequent failure of judges and prosecutors to appear, many trials lasted for several months. Furthermore, there is a widely recognized need for more prosecutors, judges, and courtrooms. Of the more than 2,074 trial court judgeships nationwide, 28 percent remained vacant as of August due to a lack of qualified applicants. Positions in Mindanao and other poorer provinces were particularly difficult to fill, and 37.2 percent of these judgeships were vacant. Also difficult to fill were the Shari'a court positions, in part because of the requirement that applicants be members of both the Shari'a Bar and the Integrated Bar.

Although Shari'a courts do not have criminal jurisdiction, the MILF asserts that its Islamic law courts do. There were no reports of executions resulting from MILF court decisions during the year. The terrorist NPA continued to subject military personnel, police, local politicians, and other persons to its so-called courts for "crimes against the people." The NPA executed some of these "defendants."

International and domestic NGOs criticized many court proceedings that resulted in death sentences, stating that the judicial system does not ensure the rights of defendants to due process and legal representation. At times, defendants in death penalty cases lacked adequate legal representation at the time of arrest, indictment, or trial. By law, the Supreme Court reviews all death sentences. In a July speech the President announced an end to the death penalty moratorium, which had been in effect since April 2001; however, by year's end, no executions had been carried out.

Various human rights NGOs maintained lists of incarcerated persons they allege to be political prisoners; estimates usually range from a few to over 200. Typically there was no distinction in these lists between detainees and prisoners, and the majority of persons on these lists have not been convicted. Some face murder, kidnapping, and other serious charges, while others are charged with lesser offenses such as possession of drugs or firearms. Some NGOs asserted that it was frequent practice to arrest political detainees for common crimes and to continue to detain them after their sentences expired. Often it was difficult to distinguish between persons possibly incarcerated for political reasons and those for common crimes. The Government uses NGO lists as one source of information in the conduct of its pardon, parole, and amnesty programs, but it does not consider the persons listed to be political detainees or prisoners. Through September, the Office of the President returned to the Board of Pardons and Parole 947 requests for presidential action, with instructions to restudy the cases.

The Government permitted access to alleged political prisoners by international humanitarian organizations.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The Constitution provides that a judge may issue search warrants on a finding of probable cause; however, while the Government generally respected restrictions on search and seizure within private homes, searches without warrants occurred. Judges declared evidence obtained illegally to be inadmissible.

The Government generally respected the privacy of its citizens; however, leaders of Communist organizations complained of what they described as a pattern of surveillance on their activities. In January, offices of a peace advocacy group in Davao City were ransacked. The perpetrators were not identified, although members of the group suspected government agents.

Forced resettlement of urban squatters, who made up at least 30 percent of the urban population, continued during the year, although to a lesser extent than in previous years. The law provides certain protections for squatters; eviction is often difficult, especially because politicians recognize squatters' voting power. Government relocation efforts were constrained by budget problems, and the issuance of land titles to squatters targeted by displacement was limited.

Although the Government itself did not use forced conscription, there were reports of forced conscription in Southern Mindanao into local indigenous peoples' paramilitary units with links to the AFP. The AFP denied these allegations. In July, a delegation of community representatives, together with representatives from religious organizations and indigenous peoples' support groups, reported abuses by vigilante groups in Southern Mindanao. Some suspected that local government officials or members of the armed forces supported the vigilante groups.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.—Some citizens groups complained that the AFP, in confronting the terrorist ASG, the NPA, and the separatist MILF, illegally detained citizens, torched houses, displaced residents, and shelled villages suspected of being ASG strongholds. The AFP defended its actions (see Sections 1.a. and 1.d.).

The terrorist ASG kidnapped and tortured many civilians during the year and beheaded a number of its captives. There were reports that the ASG killed citizens whom it suspected of being government or military informants. Clashes between the AFP and ASG occurred intermittently throughout the year, mostly in the Zamboanga peninsula and Sulu archipelago.

According to the Department of Social Welfare and Development (DSWD) statistics, at least 350,000 persons from Mindanao were displaced due to conflict between the AFP and Muslim insurgents throughout the year. From January to July, approximately 6,900 homes were damaged due to conflict between the AFP and the MILF.

In March, authorities found four indigenous Tausug villagers beheaded after a clash between suspected ASG members and AFP forces in Indanan, Sulu. The lone survivor reportedly claimed that the perpetrators were government troops who suspected the villagers of being members of the ASG. The military denied the allegations. Others suspected that the ASG beheaded the civilians.

On April 16, an AFP unit killed four minors and five others in Kananga, Leyte. The AFP reported the incident as an encounter between army soldiers and the NPA; however, activist groups accused the AFP of torturing and summarily executing the victims.

In February, clashes between the AFP and MILF in the Buliok areas of Mindanao displaced at least 70,000 persons, some of whom had returned to their homes by year's end.

During the year, the terrorist NPA killed political figures, mayors, military and police personnel, and civilians. The NPA also harassed businesses and burned buses to enforce the collection of “revolutionary taxes.” The NPA continued actively to recruit minors both as combatants and noncombatants (see Section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

Several television and radio stations were owned by the state. Most print and electronic media were privately owned. Broadcast and print media were free-wheeling and often criticized for lacking rigorous journalistic ethics. They tended to reflect the particular political or economic orientations of owners, publishers, or patrons, some of whom were close associates of present or past high-level political officials.

On August 4, police arrested the publisher-editor of an opposition newspaper on charges of libel, based on allegations of corruption against some of the President’s associates. This was the first arrest of an editor since 1986. At year’s end the case was pending. The editor was not incarcerated and was free on bail.

Journalists were the targets of several violent incidents during the year. According to the National Union of Journalists in the Philippines (NUJP), the country is now considered one of the most dangerous places in the world for journalists. Seven journalists were killed during the year. An average of three journalists are killed every year. According to the Center for Media Freedom and Responsibility, no one has been convicted and imprisoned for these killings. The NUJP accused the police and the Government of failing to adequately investigate these killings, and of subjecting journalists to harassment and surveillance.

On April 28, unidentified assailants shot and killed a Legazpi City radio announcer and former vice mayor suspected of supporting communist guerillas. On May 17, motorcyclists shot and killed a broadcaster from Quezon Province who was a former NPA member. On July 8, a lone assailant shot and killed a former barangay captain and reporter-columnist for a tabloid circulated in Tarlac province. A village official reportedly had filed a libel case against the columnist. On August 19, a radio commentator known for his criticism of corruption in the provincial government was shot and killed in front of his house in Laguna. On August 20, a radio reporter from Agusan del Norte was shot and killed near his radio station. On September 6, gunmen on a motorcycle killed a Davao City radio commentator who was a former spokesperson of an anti-communist group. The commentator had repeatedly criticized the mayor of Davao City on the air.

The Government did not restrict Internet use.

School administrators reportedly warned several student journalists against publishing critical commentaries and articles, and students on other campuses complained of military surveillance. The Government did not otherwise interfere with academic freedom.

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

Although the law requires that groups request a permit to hold a rally, the Government at times has followed an unwritten policy of allowing rallies to occur without requiring the filing of a request.

Several NGOs complained about security forces violently dispersing rallies. Violence generally was limited, and at times some of these groups provoked security forces by shoving or throwing objects. In March, members of a militant student organization in Pangasinan reported the violent dispersal of their assembly. In May, a truckload of police reportedly assaulted with water cannon and truncheons workers protesting alleged unfair labor practices. In July, militant groups and human rights organizations in Iloilo condemned the violent dispersal of a rally protesting government policies. Six protesters reportedly were injured.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Although Christianity, particularly Roman Catholicism, was the predominant religion, there is no state religion, and under the Constitution church and State are separate.

Muslims were the largest minority religious group in the country. There was widespread debate over the exact size of the Muslim population, as some officials and observers claimed that security concerns in western Mindanao prevented census takers from conducting accurate counts outside urban areas. Estimates ranged from 3.9 million to 7 million, or 5 to 9 percent of the population. Muslims resided principally in Mindanao and nearby islands, but there were Muslim communities throughout the country.

Historically, Muslims have been alienated from the predominant Christian majority. The national culture, with its emphasis on familial, tribal, and regional loyalties, creates informal barriers whereby access to jobs or resources is provided first to those of one's own family or group network. Muslims reported difficulty renting rooms in boarding houses or being hired for retail work if they used their real name or wore distinctive Muslim dress. As a result, some Muslims used a Christian pseudonym and did not wear distinctive dress when applying for housing or jobs.

The Government's crackdown on the terrorist ASG has led some human rights NGOs to accuse the police and military of unfairly targeting Muslims for arrest and detention. However, most observers believed that discrimination against Muslims was grounded on cultural differences, not religious beliefs or practices. There also were reports of Muslim discrimination against Christians in areas where Muslims were the majority.

Intermittent government efforts to integrate Muslims into political and economic society have achieved only limited success. Many Muslims claimed that they continued to be underrepresented in senior civilian and military positions, and cited the lack of proportional Muslim representation in national government institutions (see Section 3). Predominantly Muslim provinces in Mindanao lagged far behind the rest of the country in most aspects of socioeconomic development.

The teaching of religious classes in public schools was permitted with the written consent of parents, provided that there was no cost to the Government. The Department of Education required schools to ensure the protection of the religious rights of students. These measures included allowing Muslim girls to wear their head coverings ("hijab") and not requiring them to wear shorts during physical education classes.

The Commission on Higher Education, a government agency that oversees public and private higher education in the Philippines, offered study grants for some former Muslim separatists who cannot afford to study in college due to financial constraints. The program aimed to contribute to peace and order by upgrading the education of these individuals.

Approximately 14 percent of the Muslim school population in Mindanao attended Islamic schools. As of July, there were 1,569 Islamic schools ("madrassas") across the country. Of these, 832 madrassas were located in the Autonomous Region of Muslim Mindanao (ARMM), while 737 were outside the ARMM. Only 35 madrassas had been registered with Department of Education due to the others inability to meet accreditation standards.

In March, a cabinet secretary claimed that a number of Islamic schools in Mindanao were being used to teach extremism, thus leading young people to take up arms for their faith. Several Muslim leaders denied the claim.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice. Citizens enjoyed the freedom to change their places of residence and employment. Travel abroad was limited only in rare circumstances, such as when a citizen has a pending court case. Government authorities discouraged travel by workers deemed vulnerable to areas in which they face personal risk (see Section 6.f.). The Philippine Overseas Employment Administration (POEA) sought to limit departures for work abroad to those persons whom the POEA certified as qualified for the jobs. More than 7.54 million citizens worked overseas and remitted money home. Such remittances amounted to approximately 8 percent of the gross national product.

There was no comprehensive legislation that provides for granting refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. However, in practice, the Government provided protection against refoulement and granted refugee status or asylum. The Refugee Unit in the Department of Justice determines which asylum seekers qualify as refugees; such determinations in practice implement many of the basic provisions of the 1951 U.N. Convention. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and with other humanitarian organizations in assisting refugees. The Government also has provided temporary protection to certain individuals who fall outside of the definition of the 1951 U.N. Convention.

The Government continued to allow approximately 2,000 asylum seekers from Vietnam to remain in the country. All had been precluded from refugee status. There was popular support, particularly from the Roman Catholic Church, for allowing permanent residency for those asylum seekers who do not wish to repatriate and are ineligible for resettlement in other countries. The Government continued to en-

courage voluntary repatriation of such asylum seekers but has not ruled out forcible repatriation.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic elections that largely were free and fair and held on the basis of universal suffrage. On February 13, the President signed the Absentee Voting Law, which would enfranchise those eligible to vote among the 7.4 million Filipinos who reside outside the country. Total budget allocation for the law implementation amounted to \$18.2 million (P1 billion). On August 29, Congress passed the Dual Citizenship law. Under the law, those who have acquired foreign citizenship by subscribing to an oath of allegiance will be able to reacquire their Philippine nationality and to regain their right to vote.

As of September, 362,526 overseas Filipinos had registered to vote. The low rate of registration was attributed to lack of information about the procedures, inaccessible registration centers, strict employers who did not allow overseas workers to take a day off, and the requirement that voters execute an affidavit to return to the Philippines to reside within 3 years of the time of registration.

In May 2001, midterm elections were held for new senators, representatives, provincial governors, and local government officials. Approximately 100 persons were killed in election-related violence, including two sitting congressmen and a candidate for provincial governor (the NPA claimed responsibility for these and many other election-related killings), and another 140 persons were wounded in more than 200 incidents in the period preceding and following the voting. The next national election is scheduled for May 2004.

In compliance with the residence requirement for registration, the Commission on Elections (Comelec) did not allow first time voters among squatters in urban poor communities to register for the 2004 national elections unless they could prove that they were bona fide residents of their locale. Some NGOs argued that this policy reinforced the marginality of the urban poor, but Comelec officials reasoned that allowing non-compliant squatters to register would legitimize their illegal occupation of private and public properties. NGOs estimated that these developments could deprive one million squatters of the right to vote in 2004.

Some lawmakers supported the registration policy. Vote buying is common in squatter colonies, and many residents accepted bribes to vote in a certain way, or act as "flying voters," voting in several precincts.

There were no restrictions in law or practice on participation by women and members of minorities in politics. There were a number of women in positions of leadership and authority, some in highly visible positions. There were 3 female Senators in the 24-member Senate and 39 women in the 227-member House of Representatives. The President was a woman, and there were five female cabinet-level officials. There were 4 women on the 15-member Supreme Court.

Along with many other citizens, Muslims argued that the method of electing senators from a nationwide list favors established political figures from the Manila area, to the disadvantage of Muslims. Election of senators by region would require a constitutional amendment, and many Muslims and members of other groups underrepresented in the national legislature favored such an amendment. There was one Muslim cabinet member and no Muslim senators. The House of Representatives had eight Muslim members, including some elected from Christian majority districts.

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

A large and active group of human rights NGOs generally operated without government interference, investigating and publishing their findings on human rights cases. Most government officials, including those of the CHR, were responsive to NGO views. Many domestic NGOs were critical of the Government's human rights record; these NGOs also criticized previous governments' human rights records. While acknowledging that respect for human rights has improved under President Macapagal-Arroyo, many NGOs criticized the Government for being overzealous in its efforts to defeat the various insurgencies in the country. These groups cited indiscriminate arrests, torture of suspects, and the shelling of civilian areas the AFP suspected of harboring insurgents.

Some NGOs expressed concern over what they perceived as hostile government rhetoric toward human rights activists. NGOs also expressed concerns over statements by various local government officials that condoned extrajudicial killings as an acceptable means to fight crime.

Member organizations of the Philippine Alliance of Human Rights Advocates (PAHRA), a leading NGO network, monitored human rights problems and sought redress through their contacts with government agencies, the Congress, and the Government's Commission on Human Rights. Human rights activists continued to encounter minor or sporadic harassment, mainly from security forces or local officials from the area in which incidents under investigation took place. On April 22, two members of a team of human rights observers investigating alleged AFP abuses in Oriental Mindoro Province were killed (see Section 1.a.).

CHR monitoring and investigation of human rights complaints remained hamstrung by insufficient resources. Approximately one-third of the country's 42,000 barangays had Human Rights Action Centers, which coordinated with CHR regional offices. However, the CHR's regional and subregional offices remained understaffed and underfunded, reducing their effectiveness and preventing them from sufficiently investigating many abuses. The CHR was allocated \$3.6 million (P196 million) for the year, down 7 percent from 2002.

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

The Constitution prohibits discrimination against women, children, and minorities; however, vague regulations and budgetary constraints hindered implementation of these protections.

Women.—Violence against women, both in and out of the home, remained a serious societal problem. The law does not specifically address the problem of domestic violence; complaints are filed under the charge of "physical injury." The Government did not disaggregate statistics to indicate the number of physical injury cases that result from domestic violence. The Department of Social Welfare and Development assisted an average of four women per day who complained of domestic abuse, not including rape.

The PNP and the DSWD both maintained women's help desks to assist victims of violence against women and to encourage the reporting of crimes. With the assistance of NGOs, officers received gender sensitivity training to deal with victims of sexual crimes and domestic violence. Many PNP stations included female officers. Overall the Government spent an estimated \$814,000 (P45 million) during the year for medical and psychiatric facilities and shelters for women who are victims of violence.

Rape continued to be a serious problem. The PNP reported that it investigated at least 988 cases of rape during the year. There were reports of rape and sexual abuse of women in police or protective custody. These often involved women from marginalized groups, such as suspected prostitutes, drug users, and lower income individuals arrested for minor crimes.

In January, AI reported that sexual abuse of persons in police custody continued despite government initiatives to protect women in custody. Although there have been a small number of prosecutions of police officers for rape of women in their custody, most perpetrators continued to escape prosecution. According to AI, the more than 40 cases of rape or sexual abuse reported between 1995 and 2002 represent only a fraction of the real number of cases. A study from the Center for Women's Resources, a non-government women's service institution, estimated that an average of 14 cases of rape and domestic violence occur daily involving women and children (see Section 1.c.).

The law provides for the death penalty in cases of rape. Although spousal rape and abuse also are illegal, enforcement was ineffective. Some NGOs argued that courts' imposition of death sentences for rape convictions inhibits some victims, particularly relatives of the accused, from pressing charges. During the year, of the eight prisoners sentenced to death, three were convicted of rape. Of the total prison population, approximately 19 percent were sentenced for rape. Of prisoners sentenced to death, 39 percent were convicted of rape.

Prostitution is illegal. Many women suffer exposure to violence through their recruitment, often through deception, into prostitution (see Section 6.f.). Penalties for the offense are light, but detained prostitutes were subjected to administrative indignities and extortion. The DSWD continued to provide temporary shelter and counseling to women engaged in prostitution. Officials believed that this helped only a small percentage of victims. Some local officials condoned a climate of impunity for those who exploited prostitutes. An anti-trafficking law passed in May criminalizes the act of engaging the services of a prostitute. By year's end, there had been no convictions under that provision.

Sex tourism was a serious problem. Trafficking in women and children for sexual exploitation and forced labor were problems. The anti-trafficking law enacted in May outlawed a number of activities specifically related to trafficking and provided stiff penalties for convicted offenders (see Section 6.f.).

Sexual harassment in the workplace was thought to be widespread yet under-reported due to victims' fear of losing their jobs. Female employees in special economic zones (SEZs) were particularly at risk; most were economic migrants who had no independent workers' organization to assist with filing complaints. Women in the retail industry work on 3- to 5-month contracts, and were reluctant to report sexual harassment for fear their contracts would not be renewed.

In this predominantly Roman Catholic country, the law does not provide for divorce, although the courts generally recognize the legality of divorces obtained in other countries. The process of annulment is cumbersome and costly, which precluded annulment as an option for many women. Many lower income couples simply separate informally without severing their marital ties. The Family Code provides that in child custody cases resulting from annulment, illegitimacy, or divorce in another country, children under the age of 7 are placed in the care of the mother unless there is a court order to the contrary. Children over the age of 7 normally also remain with the mother, although the father can dispute custody through the courts.

In law, but not always in practice, women have most of the rights and protections accorded to men. However, unemployment rates for women are consistently higher than for men. Women's salaries averaged approximately 47 percent lower than their male counterparts'. Women continued to face some discrimination in employment. More women than men enter secondary and higher education.

The National Commission on the Role of Filipino Women, composed of 10 government officials and 13 NGO leaders appointed by the President, acts as an oversight body whose goal is to press for effective implementation of programs benefiting women.

Children.—The Government devoted considerable resources to the education, welfare, and development of children. The Department of Education had the largest budget of any cabinet department. Nevertheless, children faced serious problems.

Elementary and secondary education is free, but the quality of education remained poor due in part to inadequate budget allocation. According to U.N. Development Program figures, the annual per pupil expenditure in 2002 was \$138 (P7,590). Congress cited fiscal constraints to explain the low government allocation. In June, public school teachers criticized President Macapagal-Arroyo following the revelation of a reported \$1.2 billion (P64 billion) budget shortfall. The Department of Education reported that it needs \$3.2 billion (P170.7 billion), but reportedly was allotted \$2 billion (P106.4 billion) (13.23 percent of the national budget) for the 2003-04 school year. The Department of Education estimated that 25 percent of students drop out between grades one and three, and 33 percent between grades one and six. Nearly 60 percent of children who start school do not complete grade 10.

According to government reports, 68.3 percent of children are well nourished and 64 percent were fully immunized. The child mortality rate was 48 out of 1,000 children before the age of 5 years. In 2000, an NGO estimated that 30 to 40 percent of preschool children in the five-province Autonomous Region in Muslim Mindanao suffered from malnutrition. Most of the malnourished children were in villages in Maguindanao, Lanao del Sur, and Tawi-Tawi Provinces. According to the latest UNICEF data, at the end of 2001, 30.6 percent of children under age 5 nationwide were moderately or severely underweight.

According to UNICEF and International Labor Organization (ILO) studies, approximately 2 million children were exposed to hazardous working environments, such as in quarries, mines, and at docksides (see Section 6.d.). Sexual exploitation and trafficking in children for the purpose of sexual exploitation were problems, in spite of positive steps by the Government to address these issues. NGOs estimated that approximately 60,000 children were involved in the commercial sex industry (see Section.).

The Government estimated there were at least 22,000 street children nationwide, although some NGOs believed the number to be much higher. Welfare officials believed that the number increased as a result of widespread unemployment in rural areas. Many street children appeared to be abandoned children engaged in scavenging or begging.

Child abuse remained a problem. DSWD offices served nearly 10,045 victims of child abuse during the year, 73 percent of whom were girls. Some 44 percent of the girls were victims of sexual abuse, while the majority of the boys had been abandoned or neglected. Several cities ran crisis centers for abused women and children. The problem of foreign pedophiles continued to be reported in the press, and the Government continued to prosecute accused pedophiles. Children also were victims of police abuse while in detention for committing minor crimes.

There were reports of discrimination against children of single parents at some private Catholic schools. In 2002, the Secretary of Education ordered all private

schools to discontinue their practice of refusing admission to children of single or separated parents.

Children were targeted for recruitment as combatants and noncombatants by the terrorist NPA and ASG. The NPA claimed that it assigned persons 15 to 18 years of age to self-defense and noncombatant duties; however, there were reports that the NPA continued to use minors in combat. An official from the Office of the Presidential Advisor on the Peace Process estimated that children made up as much as 19 percent of the NPA's fighting force. In the last several years, the AFP on numerous occasions captured or killed NPA fighters who turned out to be minors.

The ASG also recruited teenagers to fight and participate in criminal activities. There were reports that a significant number of ASG members staffing the groups' camps were teenagers. The AFP said that some Islamic schools in Mindanao served as fronts to indoctrinate children, and that the ASG used children as couriers and spies. In February, the DSWD reported that seven former "child warriors" ages 11 to 15 admitted to having fought with the ASG against the AFP on Basilan island.

A variety of national executive orders and laws provide for the welfare and protection of children. Police stations have child and youth relations officers to ensure that child suspects are treated appropriately. However, the procedural safeguards were often ignored in practice. Many child suspects were detained for extended periods without access to social workers and lawyers and were vulnerable to torture and other ill treatment. There were also reports that many children detained in jails appeared to have been arrested without warrants.

A number of NGOs actively promoted children's rights.

Persons with Disabilities.—The law provides for equal physical access for persons with disabilities to all public buildings and establishments and for "the rehabilitation, self development, and self-reliance of disabled persons and their integration into the mainstream of society." The law applies to both those with physical and mental disabilities. The Department of Labor and Employment's (DOLE) Bureau of Local Employment (BLE) maintains registers of persons with disabilities indicating their skills and abilities. BLE monitors private and public places of employment for violations of labor standards regarding persons with disabilities and also promotes the establishment of cooperatives and self-employment projects for persons with disabilities.

Estimates of the number of disabled persons in the country ranged from 1 million to 3.5 million. Advocates suspected the data were incomplete due to the social stigma attached to persons with disabilities. It was estimated that the majority of persons with disabilities are younger than 65 years of age and lived at home with their families. Assisted living centers were understaffed and underfunded.

The Government mandated the provision of accessibility to buildings for persons with disabilities. Advocates for persons with disabilities contended that equal-access laws were ineffective because implementing regulations were weak, funding was inadequate, and government programs were inadequately focused on integration. Many public buildings, particularly older ones, lacked functioning elevators, meaning that persons in wheelchairs had to be carried up stairwells. Many schools had architectural barriers that made attendance difficult for persons with disabilities.

Government efforts to improve access to transportation for persons with disabilities have been halting. Only one of Manila's metro lines was wheelchair-accessible, and many stops had out-of-service elevators. Buses lacked wheelchair lifts, and there were reports of drivers who failed to stop for passengers in wheelchairs. A limited number of sidewalks had wheelchair ramps, but garbage cans and street vendors often blocked access. Many of the sidewalk wheelchair ramps were crumbling or too steep. The situation was worse in many smaller cities and towns.

Indigenous People.—Indigenous people live throughout the country, but primarily in the mountainous areas of northern and central Luzon and in Mindanao. They account for approximately 16 percent of the national population. Although no specific laws discriminate against indigenous people, the remoteness of the areas that many inhabit and cultural bias prevented their full integration into society. Indigenous children suffered from lack of basic services, health, and education.

Because they inhabit mountainous areas also favored by guerrillas, indigenous people suffered disproportionately from armed conflict. Their lands were often the sites of armed encounters, and various parties to the fighting have recruited many indigenous people. The MILF reportedly tried to recruit the Arumanen Manuvu tribe in central Mindanao. In 2002, there were reports the governor of a central Mindanao province was recruiting and arming indigenous people against the terrorist NPA.

The 1997 Indigenous Peoples' Rights Act, which was intended to implement constitutional provisions to protect indigenous people, established a National Commis-

sion on Indigenous People (NCIP), which was staffed by tribal members empowered to award certificates of title to lands claimed by indigenous persons in the country. It awards such “ancestral domain lands” on the basis of communal rather than individual ownership, impeding sale of the lands by tribal leaders. The law requires a process of informed consultation and written consent by the indigenous group to allow mining on tribal lands. The law also assigns the indigenous groups the responsibility to preserve forest, watershed, and biodiversity areas in their domains from inappropriate development. Although the Government has been slow to implement the legislation, primarily because of strong opposition from mining and agribusiness interests, some limited progress has been made. As of July, the Government claimed it had distributed approximately 907,345 acres of land to more than 76,330 indigenous families.

In his April report to the U.N. Commission on Human Rights (UNCHR), the Special Rapporteur on the rights and freedoms of indigenous people documented abuses involving arbitrary detention, persecution, killing of community representatives, coercion, torture, demolition of houses, involuntary displacements, rape, and disruption of the rights to food and shelter. He recommended more effective implementation of the Indigenous Peoples’ Rights Act. The head of the Philippine delegation at the UNCHR said that the Special Rapporteur “. . . had allowed his mandate to be hijacked and manipulated by groups with a hidden agenda.”

Section 6. Worker Rights

a. The Right of Association.—The Constitution and laws provide for the right of workers, including most public employees, with the exception of the military and the police, to form and join trade unions. Trade unions are independent of the Government. Unions have the right to form or join federations or other labor groups.

As of August, there were 171 registered labor federations and more than 19,928 private sector unions, compared to 17,771 reported in 2002. The 1.7 million union members represented approximately 5 percent of the total workforce of 34 million. The number of firms using contractual labor, primarily large employers, continued to grow.

As of August, the Bureau of Labor Relations reported 1,242 public sector unions, compared with 1,086 as of August 2002. Total public sector union membership was nearly 247,853, up from 229,929 in 2002.

Allegations of intimidation and discrimination in connection with union activities are grounds for review as possible unfair labor practices before the quasi-judicial National Labor Relations Commission (NLRC). However, unions maintained that widespread ignorance of basic standards and rights was a major obstacle to union organization. Before disputes reach the NLRC, the Department of Labor and Employment provides the services of a mediation board, which settles most of the unfair labor practice disputes raised as grounds for strikes before the strikes may be declared. DOLE, through the mediation board, also worked to improve the functioning of labor-management councils in companies that already had unions.

Unions have the right to affiliate with international trade union confederations and trade secretariats. Two of the largest trade union federations, the Trade Union Congress of the Philippines and the Federation of Free Workers, were affiliated with the International Confederation of Free Trade Unions (ICFTU) and the World Confederation of Labor, respectively.

The ICFTU has claimed that a union may be registered only if it represents at least 20 percent of workers in a bargaining unit, and that the law requires an excessively high number of unions before a federation or national center can be formed.

b. The Right to Organize and Bargain Collectively.—The Constitution provides for the right to organize and bargain collectively. The Labor Code provides for this right for employees both in the private sector and in government-owned or controlled corporations. A similar right is afforded to most government workers. Approximately 5 percent of the work force was organized. Collective bargaining was freely practiced. The number of workers covered by collective bargaining agreements rose to 270,721 or about 16 percent of union members.

Subject to certain procedural restrictions, strikes in the private sector are legal; however, unions are required to provide strike notice, respect mandatory cooling-off periods, and obtain majority member approval before calling a strike. By law, the reason for striking must be relevant to the labor contract or the law, and all means of reconciliation must be exhausted. The Secretary of Labor and Employment may intervene in some labor disputes by assuming jurisdiction and mandating a settlement if the Secretary decides that the industry involved in the strike is vital to national security. During the year, there were 38 strikes, compared to 36 in 2002.

The Labor Code provides that union officers who knowingly participate in an illegal strike may be dismissed and, if convicted, imprisoned for up to 3 years; however, according to the DOLE, there never has been a conviction under this provision.

Trade union officials reported that underpayment of the minimum wage and the use of contracting to avoid required benefits were common practices, including in the government-designated special economic zones (SEZs), where tax benefits were used to encourage the growth of export industries. Dismissal or threatened dismissal of union members also was common, and there were reports that some workers were fired after merely speaking with union organizers. There were reports that some companies offered cash to employees who agreed to identify union organizers. Some companies reportedly ordered overtime to disrupt union meetings.

Labor law applies uniformly throughout the country, including the SEZs; however, local political leaders and officials who govern the SEZs have attempted to frustrate union organizing efforts by maintaining union free or strike free policies. A conflict over interpretation of the SEZ law's provisions for labor inspection created further obstacles to the enforcement of workers' rights to organize. Despite objections from the DOLE, SEZ local directors claimed authority to conduct their own inspections as part of the zones' privileges intended by Congress. Hiring often was controlled tightly through SEZ labor centers. In organizing efforts, union successes in the SEZs have been few and marginal. Some mainstream unions avoided a major unionizing effort in the lower-wage SEZ industries, such as the garment industry. They considered it unpromising in view of both the organizers' restricted access to the closely guarded zones and the rapid turnover of the young, mainly female staff who worked on short-term contracts in the zones' many electronics and garment factories.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced labor, including forced and bonded labor by children; however, despite the Government's efforts, there were some reports of forced and bonded labor, especially by children, mainly in prostitution, drug trafficking, and other areas of the informal sector (see Sections 6.d. and 6.f.). The legal minimum age for employment as a domestic worker is 15; however, over 4 million children 17 years of age or younger, including many under 15, were so employed. Some recruiters reportedly brought girls between the ages of 13 and 17 to work in Manila or Cebu under terms that involved a "loan" advanced to their parents that the children were obliged to repay through their work (see Section 6.f.). The DOLE continued to address the problem of underage workers in family work settings by prosecutions and fines of violators (see Sections 6.d. and 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The law prohibits the employment of children under the age of 15, except under the direct and sole responsibility of parents or guardians, or in cases in which employment in cinema, theater, radio, or television is essential to the integrity of the production. The law allows employment of those between the ages of 15 and 18 for such hours and periods of the day as are determined by the Secretary of Labor, but forbids the employment of persons under 18 years of age in hazardous or dangerous work. However, child labor remained a problem, and a significant number of children were employed in the informal sector of the urban economy or as unpaid family workers in rural areas—some as bonded laborers (see Section 6.c.). The most recent government survey reported at least 4 million working children, approximately 2.4 million of whom were exposed to hazardous working environments, such as quarries and mines, docksides, and fishing boats.

Most child labor occurred in the informal economy, most often in family settings, and the Government rarely sought to prosecute a poor family because it had a working child. Nevertheless, the Government, in coordination with a number of domestic NGOs and international organizations, implemented programs to develop other, safer options for children, return them to school, and offer families viable economic alternatives to child labor. Although the Government made attempts to devote more resources to child labor programs, resources remained well below what was needed.

The Government and NGOs implemented programs to prevent the engagement of children in exploitative child labor. DOLE worked with domestic NGOs to educate communities on child labor and provided counseling and other activities for children. DOLE and the Department of Education worked with NGOs, UNICEF, and the ILO International Program on the Elimination of Child Labor to assist children to return to school. The Government also implemented fines and criminal prosecutions for child labor violations in the formal sector, such as in manufacturing. DOLE continued its efforts to rescue exploited child workers, rescuing 43 minors in 249 different operations during the year. The Employers Confederation of the Philippines pursued an active and highly visible program against child labor.

e. Acceptable Conditions of Work.—The national minimum wage did not provide a decent standard of living for a worker and family. Tripartite regional wage boards

set minimum wages. In January and February, a round of wage increases was implemented in most regions of the country. The highest rates were in the National Capital Region (NCR) and the lowest in rural regions. The minimum daily wage for NCR nonagricultural workers was \$5.05 (P280), which did not provide a decent standard of living for a worker and family in the NCR. The lowest minimum wages were in the ARMM, where the daily agricultural wage was \$2.36 (P131). The regional wage board orders covered all private sector workers except domestic servants and other persons employed in the personal service of another person. Boards outside the NCR exempted some employers because of factors such as establishment size, industry sector, involvement with exports, financial distress, and level of capitalization. These exemptions excluded substantial additional numbers of workers from coverage under the law. Unions have filed complaints about the minimum wage exemption policies.

In practice, violation of minimum wage standards was common, and large numbers of workers received less than the minimum wage set for their area. Many firms hired employees at below the minimum apprentice rates, even if there was no approved training in their production-line work. DOLE officials estimated that 60 to 70 percent of workers who should be covered by the minimum wage were actually underpaid. They acknowledged that the shortage of inspectors made the law difficult to enforce. In addition to fines, the Government also made use of administrative procedures and moral suasion to encourage employers to voluntarily rectify violations. Complaints about nonpayment of social security contributions, bonuses, and overtime were particularly common with regard to companies in SEZs.

By law, the standard legal workweek is 48 hours for most categories of industrial workers and 40 hours for government workers, with an 8-hour per day limit. The Government mandates an overtime rate of 125 percent of the hourly rate on ordinary days and 130 percent on rest days and holidays. The law mandates a full day of rest weekly. However, there is no legal limit on the number of overtime hours that an employer may require. The DOLE managed enforcement of workweek hours through sporadic inspections. The Labor Inspectorate was not considered effective.

The law provides for a comprehensive set of occupational safety and health standards. The DOLE has responsibility for policy formulation and review of these standards, but with only 209 positions allocated for inspectors nationwide, local authorities often must carry out enforcement. DOLE officials acknowledged that the number of inspectors was not adequate for the number of work sites to be inspected. DOLE launched a campaign to promote safer work environments in small enterprises. Statistics on actual work-related accidents and illnesses were incomplete, as incidents (especially in agriculture) were underreported. Workers do not have a legally protected right to remove themselves from dangerous work situations without risking loss of employment.

The Government and several NGOs worked to protect the rights of the country's 7.4 million overseas citizens, most of whom are temporary or contract workers. The Government placed financial sanctions and criminal charges on domestic recruiting agencies found guilty of unfair labor practices. Although the Philippine Overseas Employment Agency registered and supervised domestic recruiters' practices successfully, the authorities sometimes lacked sufficient resources to ensure workers' protection overseas. It sought cooperation from receiving countries and proposed migrant worker rights conventions in international forums. The Government also provided assistance through its diplomatic missions in countries with substantial numbers of migrant workers.

The labor laws protect foreign workers in the country. Foreign workers must obtain work permits and may not engage in certain occupations. Typically their work conditions were better than those faced by citizens.

f. Trafficking in Persons.—Trafficking was a problem. In May, the Government enacted a comprehensive anti-trafficking law, which defines several activities related to trafficking as illegal and imposes stiff penalties—up to life imprisonment—for convicted offenders. There were reports that the Government brought cases against traffickers; however, there was no central database for the number of cases prosecuted.

Although the Government investigated several cases of trafficking-related offenses, efforts were halting due to scarce resources and a lack of witnesses willing to testify. The principal investigative agencies were the National Bureau of Intelligence, the Bureau of Immigration, and the PNP Criminal Investigation and Detection Group. The Government cooperated with international investigations of trafficking. In January, the Philippines, Cambodia, Indonesia, Malaysia, and Thailand agreed to form a joint committee to boost multilateral cooperation against terrorism and other transnational crimes, including human trafficking.

The country was a source, transit, and destination country for internationally trafficked persons. Internal trafficking was also a problem. Reliable estimates on the numbers of individuals trafficked were not available, primarily because of limited government and NGO resources to maintain accurate information. The most serious problem appeared to be the trafficking of women across international borders to destinations in Asia (especially Japan), Europe, the Middle East, and North America. Many of these women were forced to work in the sex industry. Organized crime gangs typically trafficked persons from China through the country to destinations elsewhere, although occasionally the Philippines was the final destination.

Both adults and children were trafficked domestically from poor, rural areas in the southern and central parts of the country to major urban centers, especially metro Manila and other cities on Luzon. A significant percentage of the victims of internal trafficking were from Mindanao and were fleeing the severe poverty and violence of their home areas. Women were far more at risk to be victims of trafficking than men, and girls were more at risk than boys.

There were reports of the sexual exploitation of children. Despite government efforts at law enforcement and expanded children's programs, NGOs estimated that approximately 60,000 children were involved in the commercial sex industry. Most of these children were girls, and nearly all had dropped out of school. Children in the "entertainment industry" work long (10 to 12), odd hours from evening until early morning. Typically they came from families with unemployed or irregularly employed parents.

Traffickers targeted persons seeking overseas employment. Most recruits were girls and young women ages 15 to 22, from poor farming families, with an average of 6 to 10 siblings. The traffickers generally were private employment recruiters and their partners in organized crime. Many recruiters targeted persons from their own hometowns. The primary method used to approach victims was the promise of a respectable and lucrative job.

There was anecdotal evidence that some officials (such as customs officers, border guards, immigration officials, local police, or others) received bribes from traffickers or otherwise assisted in their operations.

Victims faced health risks, such as contracting sexually transmitted or other infectious diseases, as well as susceptibility to beatings, sexual abuse, and humiliation.

The Government devoted significant resources to assist and protect victims. The concept of a trafficked person as a victim rather than a perpetrator was particularly strong. The Government, in conjunction with NGO partners, assisted victims by providing temporary (not permanent) residency status and relief from deportation, shelter, and access to legal, medical, and psychological services.

The Department of Social Welfare and Development (DSWD) and many private groups have established shelters and rehabilitation centers. DSWD provided economic aid to victims, including residential care. Additional protective services included hotlines for reporting cases, and the operation of 24-hour halfway houses in 13 regions of the country to respond to victims. Although the Government provided some funding to domestic and foreign NGOs for services to victims, religious groups, multinational donor agencies, and private foundations typically funded most of the budgets for these NGOs.

The Government rarely deported or charged victims of trafficking with crimes; however, police frequently charged alleged prostitutes with vagrancy. No reliable statistics indicating whether these individuals were victims of trafficking were available.

Victims may file civil suits or seek legal action against traffickers. Most victims who chose to do so filed charges of illegal recruitment. However, the Government lacked substantial resources to pursue these cases.

Numerous government agencies and officials, as well as NGOs and international organizations, continued to support public information campaigns against trafficking. The Government also supported other programs to prevent trafficking, such as the promotion of women's participation in economic decision-making and efforts to keep children in school. The Government provided skills training to women, lessening the need for them to go to urban centers or overseas for employment. However, funding remained limited.

SAMOA

Samoa is a parliamentary democracy that incorporates certain traditional practices into its governmental system. The Constitution provides for a head of state;

a unicameral legislature composed primarily of extended family heads, or “matai,” and elected by universal suffrage; the protection of land rights and traditional titles; and other fundamental rights and freedoms. In 2001, the Human Rights Protection Party (HRPP) won reelection to its sixth term as the governing party and holds 31 of the 49 parliamentary seats. The election was marred by charges of bribery. In September 2001, the Supreme Court ordered four by-elections as a result of election challenges filed by losing candidates; the HRPP won all four. Executive authority is vested in the Head of State with the Government administered by the Cabinet, which consists of the Prime Minister and 12 ministers chosen by him. All laws passed by the Legislative Assembly need the approval of the Head of State, Malietoa Tanumafili II, who holds the position for life. The Legislative Assembly is to elect his successors for 5-year terms. The judiciary is independent.

The country does not have a defense force. The civilian authorities maintained effective control over the small national police force, but it had little effect beyond Apia, the capital city. There were no reports that security forces committed human rights abuses. Enforcement of rules and security within individual villages is vested in the “fono” (Council of Matai), which settles most internal disputes. Judgments by the fono usually involve fines or, more rarely, banishment from the village.

The economy is market based. The population was approximately 199,000 as of December, according to the Government Statistics Department. More than 60 percent of the workforce was engaged primarily in agriculture. The country was heavily dependent on foreign aid and on remittances sent to family members by the more than 100,000 citizens living overseas. The Government reported a 1.8 percent gross domestic product increase in 2002 and a per capita income of approximately \$1,680.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The law and the courts addressed some of these problems. Political discrimination against women and non-matai was a problem. Societal pressures and customary law may interfere with the ability to conduct fair trials. Those who do not conform to accepted societal values may face pressure, threats, violence, and banishment. However, in April, the Supreme Court overturned a lower court ruling and found that a village fono had acted illegally when it banished some residents for their religious activities. The ruling affirmed that both statutory and customary laws are subject to the individual rights provided for in the Constitution. Violence against women and children was a problem.

RESPECT FOR HUMAN RIGHTS

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

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

There were no further developments in the 2002 case of parliamentary by-election candidate Taliaoa Taamilosaga and three other persons, whose deaths in a fire were ruled homicides. The police investigation was ongoing at year’s end (see Section 3.).

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison conditions generally appeared to meet international standards, although they were fairly basic with respect to food and sanitation. Within the country’s sole prison, men and women were housed separately, juveniles were held separately from adults, and pretrial detainees were separated from convicted prisoners.

There were no known requests by independent human rights observers to visit prisons; however, the Government indicated members and church representatives also were permitted.

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

The country’s police, prison guards, and firefighters all belong to one consolidated national service. A commissioner appointed to a fixed 3-year term of office heads this service. He is assisted by four assistant commissioners and, since a government reorganization in August, reports to the Minister of Police. Corruption and impunity were not significant problems among the police; however, a lack of resources limited police effectiveness.

The law provides for issuance by the Supreme Court of an arrest warrant based on sufficient evidence, and the Government generally adhered to this provision in practice. The law provides for the right to a prompt judicial determination regarding the legality of detention, and the authorities generally respected this right in practice. Detainees are informed within 24 hours of the charges against them, or they

are released. Detainees were allowed prompt access to family members and a lawyer of their choice. If the detainee is indigent, the Government provides a lawyer. There is a functioning system of bail.

Villages are governed by traditional law, and the fono may mete out banishment, one of the harshest forms of punishment in this collective society. In some cases, civil courts have overruled banishment orders (see Sections 1.e. and 2.c.). Exile is prohibited by law, and the Government did not use it.

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

The judiciary consists of the District Court, the Lands and Titles Court, the Supreme Court, and the Court of Appeals. The Court of Appeals is the highest court. It has appellate jurisdiction only and can review the rulings of any other court. It is composed of a panel of retired New Zealand judges and sits once a year for several weeks.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The accused must be charged within 24 hours. A trial judge examines evidence and makes a determination as to whether there are grounds to proceed. Trials are public, and defendants have the right to be present and to timely consultation with an attorney, at public expense if required. Defendants may confront witnesses and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence, and defendants have the right to appeal a verdict.

However, many civil and criminal matters were handled by village fono, which varied considerably both in their decision-making style and in the number of matai involved in the decisions. The 1990 Village Fono Act gives legal recognition to the decisions of the fono and provides for limited appeal to the Lands and Titles Court and to the Supreme Court. In 2000, the Supreme Court ruled that the Village Fono Act may not be used to infringe upon villagers' freedom of religion, speech, assembly, or association. More recent court decisions reinforced this principle (see Section 2.c.).

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The law provides substantive and procedural safeguards against invasion of the home or seizure of property, including a requirement for search warrants, which are issued by the judicial branch. However, there is little or no privacy in villages. While village officials by law must have permission to enter homes, there can be substantial societal pressure to grant such permission.

In accordance with traditional law, village fono may impose a punishment of banishment (see Section d. and 2.d.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Three English-language newspapers and a number of Samoan-language newspapers were published regularly. The law requires journalists to reveal their sources in the event of a defamation suit against them. However, there has been no court case invoking this law.

The Government operated one of two television stations. There were five private radio stations, and a satellite-cable system was available in parts of Apia. In addition, approximately one-third of the population was within the broadcast area of the television station in American Samoa. Internet use was expanding rapidly, both as a news source and as a means of two-way communication; there was no government interference with its use.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. In 2000, the Supreme Court ruled that the Village Fono Act may not be used to infringe upon villagers' freedom of religion, speech, assembly, or association (see Sections 1.e. and 2.c.).

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

The Constitution acknowledges "an Independent State based on Christian principles and Samoan custom and traditions." Although Christianity is favored constitutionally, there is no official or state denomination. There are no requirements for the recognition of a religious group or for licenses or registration.

The Constitution grants each person the right to change religion or belief and to worship or teach religion alone or with others; however, in practice, the matai often

choose the religious denomination of the extended family. In past years, despite the constitutional protection, village fono—in the name of maintaining social harmony within the village—sometimes banished or punished families that did not adhere to the prevailing religious belief in the village. However, civil courts take precedence over village fono in matters involving the exercise of constitutional rights, and courts have ordered families readmitted to their villages. During the year, there were no new cases of individuals being banished by villages due to their practicing religion differently from that practiced by the village majority.

On April 24, the Supreme Court overturned a September 2000 ruling by the Lands and Titles Court that had affirmed a decision by the Falealupo village fono to banish members of a Bible study group for their religious activities. The Supreme Court's ruling in this case was the latest in a series of judicial decisions in recent years that affirmed that all laws, whether statutory or customary, are subject to the individual rights provided for in the Constitution.

Missionaries operated freely, either as part of one of the established churches or by conducting independent revival meetings. There was an independent Christian radio and television station.

The Constitution provides for freedom from unwanted religious indoctrination in schools but gives each denomination or religion the right to establish its own schools; these provisions were adhered to in practice.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice; however, village fono have, and regularly employed, the power to ban citizens from village activities or to banish them from the village for failing to conform to village laws or to obey fono rulings.

The Government actively supported emigration as a “safety valve” for the pressures of a growing population, especially for potentially rebellious youths, and because it generated income through remittances. There were an estimated 100,000 citizens living abroad, and their remittances made a significant contribution to the national economy.

The country is a signatory of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government has not enacted enabling legislation or formulated a policy regarding refugees or asylum. Nevertheless, the authorities have indicated that they would conform to international norms if such cases should arise. The Government was prepared to cooperate with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees; however, the need did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution.

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

Citizens have the right to change their government through direct multiparty elections held on the basis of universal suffrage; however, women's political rights are restricted by the fact that few of them are matai. While all citizens above the age of 21 may vote, the right to run for 47 of the 49 seats in the Legislative Assembly remains the prerogative of the approximately 25,000 matai. The remaining two seats are reserved for “at large” voters (primarily citizens who are not of full Samoan ethnic heritage and lack strong ties to one of the 47 village-based electoral districts). Matai are selected by family agreement; there is no age qualification. Although women sometimes are selected, 95 percent of matai are men. Matai control local government through the village fono, which are open to them alone.

The HRPP has dominated the political process, winning six consecutive elections since 1982. Although candidates were free to propose themselves for electoral office, in practice, they usually required the approval of the senior matai of the villages within their electoral district.

In elections in March 2001, the HRPP won 23 seats and declared victory 2 weeks later when 5 opposition party members switched to the HRPP. At year's end, the HRPP held 31 of the Parliament's 49 seats. The newly formed opposition Samoa Democratic United Party, which resulted from a December merger of the Samoa National Development Party and the United Independent Party, held 17 seats, while an HRPP-aligned independent Member of Parliament (M.P.) occupied the remaining seat. The election was marred by charges of bribery, and 10 losing candidates initially filed election challenges. In August 2001, the Attorney General intervened to foreclose further challenges and thereby prevented as many as 40 additional chal-

lenges from being filed. Following a series of trials in 2001, the Supreme Court in September 2001 ordered four by-elections. The HRPP won all four.

Retaliation was directed against witnesses who testified in these bribery cases. In March 2001, the Afega village fono banished 10 persons and their families for giving evidence in such a case; however, in June 2001, the Supreme Court overturned the village fono order, and the persons returned to their village. Other candidates who ran against the wishes of their village fono were banished. For example, in January 2001, Aeau Peniamina Leavai, former Speaker of Parliament, and his family were banned from entering his village of Falealupo, reportedly because he ran for Parliament against the wishes of the village fono (see Section 1.f.). In July 2002, the authorities determined that the deaths in a fire of four persons, including a candidate in a parliamentary by-election who had refused to withdraw in favor of the village leadership's preferred candidate, were homicides (see Section 1.a.).

There were no prohibitions on the formation of opposition parties, and there were several such parties.

There are 3 women in the 49-member legislature, and 1 woman in the 13-person Cabinet. The political rights of citizens who are not of ethnic Samoan heritage are addressed by the reservation of two parliamentary seats for "at large" voters. One cabinet minister is an at-large M.P. of mixed European-Samoan heritage. Samoans of mixed European-Samoan or Chinese-Samoan heritage are well represented in the civil service.

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

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

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

The Constitution prohibits discrimination based on race, sex, disability, language, or social status. Citizens of foreign heritage constituted approximately 3 percent of the population; they were not subjected to discrimination. Politics and culture reflect a heritage of matai privilege and power, and members of certain families have some advantages. While there was discrimination against women and non-matai, who only occasionally reached high office, women (and particularly the few female matai) nonetheless played an important role in society.

Women.—While the law prohibits the abuse of women, social custom tolerates their physical abuse within the home; such abuse was common. The role and rights of the village fono and tradition prevented police from interfering in instances of domestic violence, unless there was a complaint from the victim—which village custom strongly discouraged. While police received some complaints from abused women, domestic violence offenders typically were punished by village fono, but only if the abuse was considered extreme (that is, visible signs of physical abuse). Village religious leaders also may intervene in domestic disputes. The Government punished persons responsible for extreme assault cases, including by imprisonment.

Many cases of rape still go unreported because tradition and custom discourage such reporting; spousal rape is not illegal. Despite such discouragement, the authorities noted an increasing number of reported cases of rape, as women slowly became more forthcoming with the police. Rape cases that reached the courts were treated seriously. Convicted offenders often were given sentences of several years' imprisonment.

Prostitution is illegal; it existed, but was not a major problem. The law does not address sex tourism specifically; however, it was not a problem. The law prohibits sexual harassment; it was not a widespread problem but was believed to be under-reported.

Women have equal rights under the Constitution and statutory law, and the traditional subordinate role of women is changing, albeit slowly, particularly in the more conservative parts of society. The Ministry of Women, Community, and Social Development, which in an August governmental reorganization assumed the responsibilities of the former Ministry of Women's Affairs, oversees and helps secure the rights of women. In order to integrate women into the economic mainstream, the Government sponsored literacy programs and training programs for those not completing high school.

Children.—The Government made a strong commitment to the welfare of children through the implementation of various youth programs by the Ministry of Education and the Ministry of Health. Education is formally compulsory through age 14; however, the Government did not enforce this law, and the children of families that could not pay the required school fees were unable to attend. Boys and girls were

treated equally and attended school in approximately equal percentages. Most children attended school through junior high school. The Government provided health care for children at public hospitals for minimal charge. Law and tradition prohibit severe abuse of children but both tolerate corporal punishment. The police have noted an increase in reported cases of child abuse, which was attributed to citizens becoming more aware of the need to report the physical, emotional, and sexual abuse of children. The Government aggressively prosecuted such cases. There were no reports of commercial sexual exploitation of children. The nongovernmental organization Mapusaga o Aiga (Women against Domestic Violence) provided limited educational programs on children's rights.

There was one privately run behavior modification camp for foreign children with emotional or behavioral problems. The children were enrolled in the camp by their parents.

Persons with Disabilities.—The Government has passed no legislation pertaining to the status of persons with disabilities or regarding accessibility for them. Tradition dictates that families care for persons with disabilities, and this custom was observed widely in practice. There were no reports of societal discrimination against persons with physical or mental disabilities. In April, the Government convened a national symposium on mental health, which focused attention on the needs of the mentally ill and the challenges local communities and caregivers faced in addressing those needs.

Section 6. Worker Rights

a. The Right of Association.—Workers legally have unrestricted rights to establish and join organizations of their own choosing. There were no practical limitations to union membership, and approximately 20 percent of the workforce was unionized. There are two trade unions in the country. The Samoa National Union, organized in 1994, is a six-member association that includes workers from the three major banks. A second union represented members at the sole factory in the country. Both unions were independent of the Government and political parties. The Public Service Association, which represents government workers (an important sector of the work force), also functions as a union. There are no laws specific to union activity. The Commissioner of Labor adjudicates any cases of retribution against strikers or union leaders on a case-by-case basis.

The Public Service Association freely maintained relations with international bodies and participated in bilateral exchanges.

b. The Right to Organize and Bargain Collectively.—While workers have the legal right to engage in collective bargaining, they seldom have practiced it, due to the novelty of union activity and the inexperience of union leaders. The Public Service Association engages in collective bargaining on behalf of government workers, including bargaining on wages. Any anti-union discrimination case would be reported to and adjudicated by the Commissioner of Labor. Arbitration and mediation procedures are in place to resolve labor disputes, although such disputes rarely arise.

The Supreme Court has upheld the right of government workers to strike, subject to certain restrictions imposed principally for reasons of public safety. Workers in the private sector have the right to strike, but there were no strikes during the year.

Labor law and practice in the sole export processing zone are the same as in the rest of the country.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or bonded labor, including by children; however, in this collective society, persons, including minors, frequently were called upon to work for their villages. Most persons did so willingly; however, the matai may compel those who do not (see Section 6.d.). In February, police in American Samoa uncovered a prostitution ring in which women from Independent Samoa were lured to American Samoa with the promise of work as waitresses; once there, they allegedly were forced into prostitution (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—Under the law, it is illegal to employ children under 15 years of age except in "safe and light work." The Commissioner of Labor refers complaints about illegal child labor to the Attorney General for enforcement; however, no cases were prosecuted during the year. Children frequently were seen vending goods and food on Apia street corners. The Government has not made a definitive determination as to whether this practice violates the country's labor laws, which cover only persons who have a place of employment. Although the practice may constitute a violation of the law, local officials mostly tolerated and overlooked it. There were no reports of bonded labor by children; however, the law does not apply to service rendered to the matai, some

of whom required children to work for the village, primarily on village farms (see Section 6.c.). The extent of this practice varied by village, but it generally did not significantly disrupt children's education.

The country is not a member of the International Labor Organization (ILO) and has not ratified ILO Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work.—The law establishes for the private sector a 40-hour workweek and an hourly minimum wage of \$0.55 (WS\$1.60). An advisory commission to the Minister of Labor sets minimum wages. Wages in the private sector are determined by competitive demand for the required skills. This minimum wage sufficed for a basic standard of living for a worker and family when supplemented by the subsistence farming and fishing in which most families engage. The law provides that no worker should be required to work for more than 40 hours in any week.

The law also establishes certain rudimentary safety and health standards, which the Attorney General is responsible for enforcing. However, independent observers reported that the safety laws were not enforced strictly, except when accidents highlighted noncompliance. Many agricultural workers, among others, were protected inadequately from pesticides and other dangers to health. Government education programs were addressing these concerns. The law does not apply to service rendered to the matai. While the law does not address specifically the right of workers to remove themselves from a dangerous work situation, a report of such a case to the Commissioner of Labor would prompt an investigation, without jeopardy to continued employment. Government employees are covered under different and more stringent regulations, which were enforced adequately by the Public Service Commission.

Foreign workers are protected by law; minimum wage and working conditions standards apply equally to them. There were very few foreign workers in the country due to the high unemployment rate. Most foreign workers were educated professionals in technical and health services fields.

f. Trafficking in Persons.—There is no statute that specifically addresses trafficking in persons. In February, police in American Samoa uncovered a prostitution ring in which up to 40 young women from Independent Samoa were lured to American Samoa with the promise of work as waitresses; once there, they allegedly were forced into prostitution. The Government cooperated with the American Samoan authorities' investigation and deported an alleged leader of the ring, who had fled to Independent Samoa, back to American Samoa for prosecution. The six Samoan women found in a brothel operated by the ring when the authorities acted to close it down returned to Independent Samoa.

SINGAPORE

Singapore is a parliamentary republic in which politics is dominated overwhelmingly by the People's Action Party (PAP), which has been in power since the country gained autonomy from the United Kingdom in 1959. Opposition parties exist, and there are regularly contested elections. However, the PAP holds 82 of 84 elected parliamentary seats and all ministerial positions. Elections take place at regular, constitutionally mandated intervals. The judiciary is efficient and constitutionally independent; however, there is a general perception that it reflects the views of the ruling party in politically sensitive cases. Moreover, a variety of executive actions are exempt from judicial review. Government leaders used court proceedings, in particular defamation suits, against political opponents and critics.

The police are responsible for routine security within the country and for border protection, including action against illegal immigrants. Military forces are responsible for external defense. The Internal Security Department (ISD) in the Ministry of Home Affairs is authorized by the Internal Security Act (ISA) to counter perceived threats to the nation's security such as espionage, international terrorism, threats to racial and religious harmony, and subversion. The Government maintains effective control over all security activities. There were no reports that security forces committed human rights abuses.

The country has a free market economy and wealth is distributed broadly. Its population is approximately 4 million with foreign workers accounting for nearly one-fifth of the total. Financial and business services industries, manufacturing of semiconductors and telecommunications equipment, and petroleum refining and petrochemical production are key sectors of the economy. After more than 30 years of high growth rates, economic performance has been inconsistent since 2000. The

economy grew an estimated 0.8 percent during the year, following 2 percent growth in 2002. Unemployment was around 6 percent, an historic high for the country.

The Government generally respected the human rights of its citizens; however, there were significant problems in some areas. The Government has broad powers to limit citizens' rights and to handicap political opposition, which it used in practice. There were no substantiated instances of police abuse of detainees. In the past, the media has fully covered the Government's vigorous investigations and prosecutions of cases involving alleged police abuse. Caning, in addition to imprisonment, was a routine punishment for numerous offenses. The Government continued to rely on preventive detention to deal with espionage, terrorism, organized crime, and narcotics. The authorities sometimes infringed on citizens' privacy rights. The Government continued to restrict significantly freedom of speech and freedom of the press, as well as to limit other civil and political rights. Government pressure to conform resulted in the practice of self-censorship among journalists. Government leaders continued to utilize court proceedings and defamation suits against political opponents and critics. These suits, which have consistently been decided in favor of government plaintiffs, chilled political speech and action and created a perception that the ruling party used the judicial system for political purposes.

There was a moderate level of ongoing debate in newspapers and Internet chat groups on various public issues. A Speakers' Corner continued to provide a public forum for persons to speak on a range of issues. However, government restrictions on its use, including prohibitions against the discussion of sensitive ethnic or religious issues, inhibited free speech. The Government significantly restricted freedom of assembly and freedom of association; however, in July, the Government granted permits to an opposition-affiliated international youth conference. Jehovah's Witnesses and the Unification Church are banned; however, freedom of religion generally was respected. There was some legal discrimination against women, which affected benefits for children and husbands. The Government moved actively to counter societal discrimination against women and minorities. The Government maintains a strong commitment to children's rights and welfare, and implemented a comprehensive program for barrier-free accessibility for persons with disabilities. Some violence and discrimination against women occurred. Trafficking in persons occurred.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them during the year. In previous years, there were a small number of cases involving alleged police mistreatment of detainees. Persons who alleged mistreatment were permitted to bring criminal charges against government officials suspected of involvement in such abusive behavior. The media reports fully on allegations of police abuse, and the Government has taken action against abusers. In July, a court overturned a dismissal of a former police officer who was fired in 2001 for allegedly slapping three women detainees in 1999; the Government is appealing the decision.

The Penal Code mandates caning, in addition to imprisonment, as punishment for approximately 30 offenses involving the use of violence or threat of violence against a person, such as rape and robbery, and for nonviolent offenses such as vandalism, drug trafficking, and violation of immigration laws. Caning is discretionary for convictions on other charges involving the use of force, such as kidnapping or voluntarily causing grievous hurt. Women and men over age 50 or under age 16, and those determined medically unfit are exempt from punishment by caning. Although statistics for the year were not available, caning was a commonly administered punishment.

Prison conditions, while Spartan, generally were believed to meet international standards. However, a member of an opposition party who served a 5-week prison sentence in 2002 said after his release that he and other sick bay inmates had been chained to their beds at night. The Government responded that the inmates were restrained to minimize the risk of hurting themselves, medical staff, or other inmates. The Government did not allow human rights monitors to visit prisons; however, diplomatic representatives were given consular access to citizens of their countries.

Male and female prisoners are held separately, and juveniles are held separately from adults. Pretrial detainees are held separately from convicts. It is unknown where persons detained under the ISA are held.

d. Arbitrary Arrest, Detention, or Exile.—The law provides that, in most instances, arrests be carried out following the issuance of an authorized warrant; however, some laws, such as the Internal Security Act (ISA), provide for arrests without warrants. Those arrested must be charged before a magistrate within 48 hours. The majority of those arrested are charged expeditiously and brought to trial. Those who face criminal charges are allowed counsel, and the Law Society of Singapore administered a criminal legal aid plan for those who could not afford to hire an attorney. A functioning system of bail exists. In death penalty cases, the Supreme Court appoints two attorneys for defendants who are unable to afford their own counsel.

The police force is well trained and highly disciplined. Corruption is not a problem, and the police effectively maintain internal law and order.

Some laws—the ISA, the Criminal Law (Temporary Provisions) Act (CLA), the Misuse of Drugs Act (MDA), and the Undesirable Publications Act (UPA)—have provisions for arrest and detention without a warrant or judicial review. The ISA has been employed primarily against suspected security threats. Historically, these threats have been Communist-related; however, during the year, the ISA was employed against suspected terrorists. Opposition politicians have called for the abolition of the ISA, but the Government rejected these calls, claiming that citizens accept the act as an element of the nation's security. The CLA historically has been employed primarily against suspected organized crime and drug trafficking.

The ISA and the CLA permit preventive detention without trial for the protection of public security, safety, or the maintenance of public order. The ISA gives broad discretion to the Minister for Home Affairs to order detention without filing charges at the direction of the President, if the latter determines that a person poses a threat to national security. The initial detention may be for up to 2 years and may be renewed without limitation for additional periods up to 2 years at a time. Detainees have a right to be informed of the grounds for their detention and are entitled to counsel. However, they have no right to challenge the substantive basis for their detention through the courts. The ISA specifically excludes recourse to the normal judicial system for review of a detention order made under its authority. Instead, detainees may make representations to an advisory board, headed by a Supreme Court justice, which reviews each detainee's case periodically and must make a recommendation to the President within 3 months of the initial detention. The President may concur with the advisory board's recommendation that a detainee be released prior to the expiration of the detention order but is not obligated to do so.

An individual detained under the ISA for suspected espionage in 1998 was released in March 2002. Authorities have stated that a total of 37 detainees are being held under the Internal Security Act as suspected terrorists, including 5 persons first detained during the year. Of these detainees, 35 are suspected of belonging to the Jemaah Islamiyah, an Al-Qa'ida-affiliated terrorist group, and 2 are suspected of membership in the Moro Islamic Liberation Front. The first arrests of 15 suspected terrorists occurred in December 2001, with other arrests subsequently announced in 2002 and during the year. The 37 detainees include 3 Singaporean citizens who were arrested after being repatriated by Afghanistan, Thailand, and Indonesia over the last 2 years. By year's end, authorities had released six other persons under ISA restriction orders, which limited travel and association; three of these persons were suspected of being Jemaah Islamiyah members, two were suspected Moro Islamic Liberation Front members, and one was identified as an "Al-Qa'ida sympathizer" who had given material support to an Al-Qa'ida operative.

The CLA comes up for renewal every 5 years, and the next review of the Act is scheduled for 2004. Under its provisions, the Minister for Home Affairs may order preventive detention, with the concurrence of the Public Prosecutor, for an initial period of 1 year, and the President may extend detention for additional periods of up to 1 year at a time. The Minister must provide a written statement of the grounds for detention to the Criminal Law Advisory Committee (CLAC) within 28 days of the order. The CLAC then reviews the case at a private hearing. CLAC rules require detainees be notified of the grounds of their detention at least 10 days prior to this hearing, in which a detainee may represent himself or be represented by a lawyer. After the hearing, the Committee makes a written recommendation to the President, who may cancel, confirm, or amend the detention order. However, persons detained under the CLA may have recourse to the courts via an application of a writ of habeas corpus. Persons detained without trial under the CLA are entitled to counsel but may challenge only the substantive basis for their detention to the CLAC. The CLA is used almost exclusively in cases involving narcotics or criminal organizations and has not been used for political purposes. According to official

figures, 213 persons were in detention under the provisions of the CLA as of September, down from 400 in June 2000. Persons who allege mistreatment while in detention may bring criminal charges against government officials alleged to have committed such acts.

Both the ISA and the CLA contain provisions that allow for modified forms of detention such as curfews, residence limitations, requirements to report regularly to the authorities, limitations on travel, and, in the case of the ISA, restrictions on political activities and association.

The MDA permits detention without trial. Under the MDA, the director of the CNB also may commit—without trial—suspected drug abusers to a drug rehabilitation center for a 6-month period, which is extendable by a review committee of the institution for up to a maximum of 3 years. From January to September, 225 persons were committed to drug rehabilitation centers. Under the Intoxicating Substances Act, the CNB director may order the treatment for rehabilitation of a person believed to be an inhalant drug abuser for up to 6 months. Other sections of the MDA allow for capital punishment or conviction of persons found guilty of narcotics trafficking offenses (see Section 1.e.).

The Constitution prohibits forced exile, and the country did not employ forced exile.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision; however, in practice, laws that limit judicial review permit restrictions on Constitutional rights. Some judicial officials, especially Supreme Court judges, have ties to the ruling party and its leaders. The President appoints judges to the Supreme Court on the recommendation of the Prime Minister and in consultation with the Chief Justice. The President also appoints subordinate court judges on the recommendation of the Chief Justice. The term of appointment is determined by the Legal Service Commission, of which the Chief Justice is the Chairman. Under the ISA and the CLA, the President and the Minister of Home Affairs have substantial de facto judicial power, which explicitly (in the case of the ISA) or implicitly (in the case of the CLA) excludes normal judicial review. These laws provide the Government with the power to limit, on vaguely defined national security grounds, the scope of certain fundamental liberties that otherwise is provided for in the Constitution.

Government leaders historically have used court proceedings, in particular defamation suits, against political opponents and critics (see Sections 2.a. and 3). Both this practice and consistent awards in favor of government plaintiffs raised questions about the relationship between the Government and the judiciary and led to a perception that the judiciary reflected the views of the ruling party in politically sensitive cases. Opposition leader Chee Soon Juan, charged with defamation by the Prime Minister and Senior Minister arising from comments Chee made during the 2001 election campaign, stated he was unable to retain experienced local counsel (see Section 2.a.). Chee requested that the judge hearing the case allow a foreign lawyer to represent him. In April 2002, the judge ruled that he had not established that the complexity of his case merited foreign counsel and refused the request. In an August 2002 summary judgment proceeding, Chee represented himself unsuccessfully. He protested that the judge's bar against foreign counsel had significantly handicapped his ability to receive a fair hearing. In February, Chee again represented himself in an appeal of the summary judgment. An April High Court judgment denied the appeal. The Lawyer's Committee for Human Rights (LCHR), which observed the February hearing, issued a report that criticized the process, especially the absence of counsel for Chee in court. The Government, and the lawyer for the Prime Minister and Senior Minister, rejected the organization's criticisms, noting that Chee had extensive legal help in preparing his briefs, and that it is not uncommon for local courts to disapprove applications for foreign counsel.

The judicial system has two levels of courts: The Supreme Court, which includes the High Court and the Court of Appeal, and the subordinate courts. Subordinate court judges and magistrates, as well as public prosecutors, are civil servants whose specific assignments are determined by the Legal Service Commission, which can decide on job transfers to any of several legal service departments. The subordinate courts handle the great majority of civil and criminal cases in the first instance. The High Court may hear any civil or criminal case, although it generally limits itself to civil matters involving substantial claims and criminal matters carrying the death penalty or imprisonment of more than 10 years. The Court of Appeal is the highest and final court of review for matters decided in the subordinate courts or the High Court. In addition, the law provides for Islamic courts whose authority is limited to Islamic family law, which is applicable only to Muslims. Supreme Court Justices may choose to remain in office until the mandatory retirement age of 65, after which they may continue to serve at the Government's discretion for brief, re-

newable terms at full salary. The Constitution permits the Prime Minister or the Chief Justice to convene a tribunal to remove a justice “on the ground of misbehavior or inability . . . to properly discharge the functions” of office, but this provision never has been used.

The judicial system provides citizens with an efficient judicial process. In normal cases, the Criminal Procedures Code provides that a charge against a defendant must be read and explained to him as soon as it is framed by the prosecution or the magistrate. Defendants enjoy a presumption of innocence and the right of appeal in most cases. They have the right to be present at their trials and to be represented by an attorney; the Law Society administers a criminal legal aid plan for those who cannot afford to hire an attorney. Defendants also have the right to question opposing witnesses, to provide witnesses and evidence on their own behalf, and to review government-held evidence relevant to their cases. Trials are public and heard by a judge; there are no jury trials. Despite the general presumption of innocence, the Misuse of Drugs Act (MDA) stipulates that a person whom the prosecution proves has illegal narcotics in his possession, custody or control shall be assumed to be aware of the substance, and places the burden on the defendant to prove otherwise. The same law also stipulates that, if the amount of the narcotic is above set low limits, it is the defendant’s burden to prove he did not have the drug for the purpose of trafficking. Convictions for narcotics trafficking offenses carry lengthy jail sentences or the death penalty, depending on the type and amount of the illegal substance. Persons charged with a capital offense under the MDA have the right to a public trial and to appeal conviction.

The Constitution extends these rights to all citizens; however, persons detained under the ISA or CLA are not entitled to a public trial. In addition, proceedings of the advisory board under the ISA and CLA are not public (see Section 1.d.).

There is a two-tier military court system, which has jurisdiction over all military servicemen, civilians in the service of the Armed Forces, and volunteers when they are ordered to report for service. The Military Court of Appeal has the jurisdiction to examine an appeal from a person convicted at a subordinate military court. Trials are public and the defendants have the right to be present. An accused individual also has the right to defense representation.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The Constitution does not address privacy rights. The Government generally respected the privacy of homes and families; however, it has a pervasive influence over civic and economic life and sometimes uses its broad discretionary powers to infringe on these rights. Normally the police must have a warrant issued by a court to conduct a search; however, they may search a person, home, or a property without a warrant if they decide that such a search is necessary to preserve evidence. The Government has wide-ranging discretionary powers under the ISA, CLA, MDA, and UPA to conduct searches without a warrant if it determines that national security, public safety and order, or the public interest is at risk. Defendants may request judicial review of such searches.

Law enforcement agencies, including the Internal Security Department and the Corrupt Practices Investigation Board, have extensive networks for gathering information and conducting surveillance, and highly sophisticated capabilities to monitor telephone and other private conversations. No court warrants are required for such operations. It is believed that the authorities routinely monitor telephone conversations and the use of the Internet; however, there were no confirmed reports of such practices during the year. The law permits government monitoring of Internet use. It is widely believed that the authorities routinely conduct surveillance on some opposition politicians and other government critics; however, no such reports were substantiated during the year.

In pursuit of what it considers the public interest, the Government generally enforces ethnic ratios for publicly subsidized housing, where the majority of citizens live and own their own units. The policy is designed to achieve an ethnic mix more or less in proportion to that in society at large (see Sections 1.d. and 5). When a housing development is at or near the limit for a particular ethnic group, the policy could mean owners find it difficult to sell their apartments, or must sell at a lower price.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and freedom of expression but permits official restrictions on these rights, and, in practice, the Government significantly restricted freedom of speech and freedom of the press. The Government’s authoritarian style fostered an atmosphere inimical to free speech and a free press. Government intimidation and pressure to conform re-

sulted in the practice of self-censorship among journalists; however, there continued to be some limited progress towards greater openness during the year, including a moderate level of ongoing debate in newspapers and Internet chat groups on various public issues.

Under the ISA, the Government may restrict or place conditions on publications that incite violence, counsel disobedience to the law, have the potential to arouse tensions in the country's diverse population, or might threaten national interests, national security, or public order. While the ISA has not been invoked in recent years against political opponents of the Government, political opposition and criticism remained restricted by the Government's authority to define these powers broadly. Occasional government references to speech that it considered "out-of-bounds" were understood to be implicit threats to invoke the ISA; however, these limits are not codified, and journalists and others generally believed these limitations have shifted toward greater tolerance in recent years.

Government leaders urged that news media support the goals of the elected leadership and help maintain social and religious harmony. In addition, strict defamation and press laws and the Government's demonstrated willingness to respond vigorously to what it considered personal attacks on officials sometimes led journalists and editors to moderate or limit what was published.

Under the Public Entertainment and Meetings Act (PEMA), a permit is required for virtually any form of public speech or entertainment (see Section 2.b.). In June 2002, Chee Soon Juan, Secretary-General of the opposition Singapore Democratic Party, after being denied a permit, was charged with willful trespass and attempting to provide public entertainment without a license for holding an unauthorized rally in May 2002 outside the Istana, the government compound housing the offices of the President and the Prime Minister. Chee was fined \$2,570 (S\$4,500) and a colleague was fined \$1,715 (S\$3,000). Chee chose to serve a 5-week prison sentence rather than pay the fine.

In 2000, the Speakers' Corner opened in a financial district park; however, government restrictions limited the ability to speak freely. Prospective speakers must be citizens, must show their identification cards, and are required to register in advance with the police. However, they do not need to obtain a public entertainment license. There is a ban on sound amplification at the Speakers' Corner. A list of registered speakers was posted on a notice board outside of the police station. While speech topics were not required to be declared in advance, government regulations governing the Speakers' Corner state that "the speech should not be religious in nature and should not have the potential to cause feelings of enmity, ill will, or hostility between different racial or religious groups." In early 2001, police issued a public notice stating that activities at the Speakers' Corner, including demonstrations and marches, required public permits; violators and persons engaging in "disorderly behavior" were subjected to prosecution. A variety of persons, including politicians, social activists, and ordinary citizens, availed themselves of the Speakers' Corner during the year. In 2002, opposition figure Chee Soon Juan spoke at the Corner to criticize the Government's enforcement of a ban on schoolgirls wearing the "tudung," a headscarf that some Muslims considered a religious requirement. When he registered to speak, police called Chee's attention to the ban on any discussion of sensitive religious or ethnic issues then did so again after he began his speech. Chee was allowed to finish his remarks. However, he was later charged with violation of the PEMA and convicted. The \$1,715 (S\$3,000) fine imposed on Chee affected his ability to participate in politics. Under the Constitution, individuals who are fined more than \$1,140 (S\$2,000) cannot run for Parliament for 5 years.

The Government strongly influenced both the print and electronic media. Two companies, Singapore Press Holdings Ltd. (SPH) and MediaCorp, own all general circulation newspapers in the four official languages—English, Chinese, Malay, and Tamil. MediaCorp is wholly owned by the Government investment company. SPH is a private holding company with close ties to the Government; the Government must approve, and can remove, the holders of SPH management shares who have the power to appoint or dismiss all directors or staff. As a result, while newspapers printed a large and diverse selection of articles from domestic and foreign sources, their editorials, coverage of domestic events, and reporting of sensitive foreign relations issues closely reflected government policies and the opinions of government leaders. However, columnists' opinions, editorials, and letters to the editor expressed a moderate range of opinions on public issues.

Government-linked companies and organizations operated all broadcast television channels and almost all radio stations. Only one radio station, the British Broadcasting Corporation (BBC) World Service, was completely independent of the Government. Some Malaysian and Indonesian television and radio programming can be received, but satellite dishes were banned, with few exceptions. However, house-

holds subscribing to cable have access to three foreign television news channels and many entertainment channels, including some with news programs.

A substantial number of foreign media operations were located within the country. The law requires foreign publications that report on politics and current events in Southeast Asia to register, post a \$114,286 (S\$200,000) bond and name a person in the country to accept legal service. The Government has granted exemptions to 14 of the 17 publications to which these requirements could apply. Nonetheless, these requirements strengthen the Government's control over foreign media. Under the Newspaper and Printing Presses Act, the Government may limit the circulation of foreign publications that it determines interfere with domestic politics. The importation of some publications is barred, although a wide range of international magazines and newspapers can be purchased uncensored. However, newspapers printed in Malaysia may not be imported. The weekly circulation of the Asian Wall Street Journal (AWSJ) and the Far Eastern Economic Review (FEER), both foreign publications, was limited (or "gazetted"). The Government gradually has raised the allowed weekly circulation of publications to correspond more or less to actual demand. The Government also may ban the circulation of domestic and foreign publications under provisions of the ISA and the UPA. In 2001, Parliament passed an amendment to the Broadcasting Act that empowers the Minister for Information, Communication, and the Arts to "gazette" or place formal restrictions on any foreign broadcaster deemed to be engaging in domestic politics. Once gazetted, a broadcaster can be required to obtain express permission from the Minister to continue broadcasting in the country. The broadcaster also may have restrictions imposed on the number of households receiving its programming and can be fined up to \$57,000 (S\$100,000) for failing to comply with this provision.

The country's defamation laws make it relatively easy for plaintiffs to win substantial judgments for damages and legal costs. Conviction on criminal defamation charges can result in a prison sentence of up to 2 years, a fine, or both. Threats of defamation actions often persuade newspapers and others to apologize and pay damages for perceived slights, a situation which prompts general caution in expressing criticisms. Critics charged that government leaders used defamation lawsuits or threats of such actions to discourage public criticism and intimidate opposition politicians and the press. The unbroken success of government leaders' suits in the last decade has fostered public caution about political speech and a culture of self-censorship within the news media, and has inhibited opposition politics. During the last decade, ruling party leaders sued opposition politicians J.B. Jeyaretnam, Chee Soon Juan, and Tang Liang Hong for defamation several times. The Government argued that these individuals had repeatedly defamed ruling party leaders, who then acted to clear their names. At the end of 2001, Senior Minister Lee Kuan Yew and Prime Minister Goh Chok Tong sued opposition leader Chee Soon Juan for defamation, based upon comments Chee made during a campaign stop prior to the November 2001 general election. During the 2001 campaign, Chee issued a public apology, which he later retracted, then countersued the Senior Minister for calling him a "liar" and a "cheat." In August 2002, a court ruled that Chee's earlier statements effectively had conceded the defamation charges, but ordered a hearing to set the amount of damages. Chee represented himself in the hearing after being refused permission to retain foreign counsel (see Section 1.e.). The court has yet to decide the amount Chee will have to pay the two ministers.

In 2002, the Bloomberg news service publicly apologized and agreed to pay \$340,000 (S\$595,000) in damages to Prime Minister Goh and Senior Minister Lee Kuan Yew for an Internet-distributed Bloomberg column that accused them of nepotism. The column alleged that Ms. Ho Ching, Deputy Prime Minister Lee Hsien Loong's wife, was promoted to the senior position in the main government investment holding company because of her relationship with the senior leadership. Also in 2002, police seized the computers of two men as part of a formal investigation into whether their Internet postings the previous month had constituted criminal defamation. These postings also had raised the issue of nepotism. One of the men, Zulfikar Mohamad Shariff, later left the country for Australia, asserting that the country's judicial system was biased politically. The other man complained that, 2 weeks after seizure of his computer, authorities had compelled him to stay in a mental facility for more than a week; authorities claimed his wife requested that he be committed to the facility. In 2001, other criminal charges against the man for an Internet posting were dropped after a government consultant told the court he had longstanding mental problems, and his wife agreed to send him for treatment. No further developments in the police investigations were reported at year's end.

The Singapore Broadcasting Authority (SBA) censored broadcast media and Internet sites. The Ministry of Information, Communication, and the Arts (MITA) censored all other media, including movies, video materials, computer games, and

music. Banned publications consisted primarily of sexually oriented materials, but also included some religious and political publications. Both SBA and MITA developed censorship standards with the help of a citizen advisory panel. The ISA, the UPA, and the Films Act allow the banning, seizure, censorship, or restriction of written, visual, or musical materials by these two agencies if they determine that such materials threaten the stability of the State, are pro-Communist, contravene moral norms, are pornographic, show excessive or gratuitous sex and violence, glamorize or promote drug use, or incite racial, religious, or linguistic animosities. The Films Act bans political advertising using films or videos, as well as films directed towards any political purpose. Other restrictions tightly control the types of campaign materials that can be distributed by or about candidates and parties during an election.

The Media Development Authority (MDA) has the power to sanction broadcasters for airing what it believes to be inappropriate content. In June, the MDA fined MediaCorp, the country's largest broadcasting conglomerate, \$8,570 (S\$15,000) for airing an interview with a foreign actress that focused on her much publicized lesbian relationship. The program aired at 4:30 PM on a Sunday afternoon and was deemed inappropriate for family viewing. All content airing between 6:00 AM and 10:00 PM must be suitable for viewers of all ages. Polls indicated strong public support for continued censorship of sex and violence in films. There was a list of banned films, which was available for viewing on the MDA's website. Certain films that have been barred from general release may be allowed limited showings, either censored or uncensored, with a special rating. In practice, censorship standards have been significantly relaxed in recent years for live theater performances. Plays with overtly sexual or anti-ruling party themes have been permitted.

The SBA regulates access to material on the Internet, using a framework of website licenses. Internet service providers are not required to submit content for approval before posting, but are required to ensure that content complies with the SBA's Internet Code of Conduct. It also regulates Internet material by licensing Internet service providers through which local users are required to route their Internet connections. Such services act as a filter for content that the Government considers objectionable and could even block access to certain sites. While the Government did not consider regulation of the Internet to be censorship, the SBA directed service providers to block access to websites that, in the Government's view, undermined public security, national defense, racial and religious harmony, and public morals. The SBA has ordered ISPs to block 100 specific websites, which the Government considered pornographic; officials stated that this step was largely symbolic, since means existed to circumvent the blocking. The SBA indicates it does not intend to monitor the Internet or electronic mail use but to block access to material that contains pornography or excessive violence or incites racial or religious hatred. Those responsible for sites that violated the Code of Practice can face charges, including fines. The Government has not taken official action against any ISPs for violating the code.

In 2001, the SBA ordered Sintercom, which ran an online discussion forum that included some political postings, to register with the authorities as a political website. Registration as a political site underlined the responsibility of organizers to ensure that site content complied with the Code of Conduct. After an unsuccessful appeal, Sintercom complied with the request. Soon thereafter, the founder and sponsor of the site shut it down, citing fatigue after 7 years on the job. In May 2002, an anonymous editor resurrected the Sintercom website, hosting it on servers outside of the country. The site was still operating at year's end.

All public institutions of higher education and political research institutions are linked closely to the Government. Although faculty members are not technically government employees, in practice they were subject to potential government influence. Academics spoke and published widely, and engaged in debate on social and political issues. However, they were aware that any public comments outside the classroom or in academic publications that ventured into prohibited areas—criticism of political leaders or sensitive social and economic policies, or comments that could disturb ethnic or religious harmony or that appeared to advocate partisan political views—could subject them to sanctions. Publications by local academics and members of research institutions rarely deviated substantially from government views.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides citizens the right to peaceful assembly but permits Parliament to impose restrictions “it considers necessary or expedient” in the interest of security, public order, or morality. In practice, the Government restricted this right. Public assemblies of five or more persons, including political meetings and rallies, require police permission (see Section 2.a.). Spontaneous public gatherings or demonstrations were virtually unknown. The Government closely monitored political gatherings regardless of the

number of persons present. Persons who wished to speak at a public function, excluding functions provided by or under the auspices of the Government, needed to obtain a public entertainment license from the police; however, in 2001, new regulations exempted some cultural events (such as Chinese operas or lion dances), requiring 7-day advance notice to the police in lieu of a permit. In the past, opposition politicians routinely experienced delays before being notified of decisions on their applications for speaking permits, although the Government claimed that the delays came only when applications were submitted late. According to the police, the normal processing time for an application is 7 working days from the date of receipt.

In October 2002, Singapore Democratic Party leader Chee Soon Juan and a colleague were convicted of holding an unauthorized rally in May 2002 at the entrance to the compound where senior government leaders maintained their offices (see Section 2.a.). In 2001, authorities approved two public rallies by opposition political activists; one was a rally in support of the Singapore Democratic Party, and the other was to raise money for defamation judgments against opposition politician J.B. Jeyaretnam. In both cases, authorities required the hiring of security guards for crowd control, which organizers complained increased costs significantly. In July, the Government permitted the Singapore Democratic Party to hold an "International Youth Conference for Democracy." Over 100 delegates from Europe, Asia, and the U.S. attended the 3-day event.

In August, the Government granted a permit for a second annual 3-day, 2,500-person festival advertised to homosexuals around Asia. On December 5, the police denied a public entertainment license for a forum on Burma organized by the Alliance for Reform and Democracy in Asia and the Taiwan Foundation for Democracy, asserting that, "The proposed event is likely to be contrary to the public interest." The police did grant a license for a December 6 event organized by an NGO to present the Human Rights Defender award to J.B. Jeyaretnam, former MP and former Secretary General of the Workers' Party.

Most associations, societies, clubs, religious groups, and other organizations with more than 10 members are required to register with the Government under the Societies Act. The Government denied registration to groups that it believed were likely to have been formed for unlawful purposes or for purposes prejudicial to public peace, welfare, or public order. During the last 5 years, authorities denied registration to 10 of 1,236 groups seeking registration. The Government has absolute discretion in applying criteria to register or dissolve societies. The Government prohibits organized political activities except by groups registered as political parties or political organizations. This prohibition limits opposition activities, and contributes to restricting the scope of unofficial political expression and action (see Section 3). The prohibition affected the PAP less because of its long domination of the Government and its overwhelming parliamentary majority; the PAP traditionally has been able to use nonpolitical organizations such as residential committees and neighborhood groups for political purposes far more extensively than opposition political parties. Political parties and organizations are subject to strict financial regulations, including a ban on receiving foreign donations. Due to laws regulating the formation of publicly active organizations, there were few NGOs, apart from nonpolitical organizations such as religious groups, ethnically affiliated organizations, and providers of welfare services.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the Government banned some religious groups. The Constitution provides that every citizen or person in the country has the right to profess, practice, or propagate his religious belief so long as such activities do not breach any other laws relating to public order, public health, or morality.

All religious groups are subject to government scrutiny and must be registered under the Societies Act. The 1992 Maintenance of Religious Harmony Act (MRHA) gives the Government the power to restrain leaders and members of religious groups and institutions from carrying out political activities, "exciting disaffection against" the Government, creating "ill will" between religious groups, or carrying out subversive activities. The act was prompted by activities that the Government perceived as threats to religious harmony, including aggressive and "insensitive" proselytizing and the "mixing of religion and politics." Violation of a restraining order issued under the MRHA is a criminal offense. The act also prohibits judicial review of its enforcement or of any possible denial of rights arising from its implementation.

The Government played an active but limited role in religious affairs. It did not tolerate speech or actions, including those of a religious nature, which adversely affect racial and religious harmony, and sometimes issued restraining orders barring participation in such activities. The Presidential Council for Religious Harmony re-

views such orders and makes recommendations to the President on whether to confirm, cancel, or alter a restraining order. The Presidential Council for Minority Rights examines all pending legislation to ensure it is not disadvantageous to a particular group, reports to the Government on matters that affect any racial or religious community, and investigates complaints. The Government also supports citizen access to traditional religious organizations by assisting religious institutions to find space in public housing estates where most citizens lived. The Government maintained a semi-official relationship with the Muslim community through the Islamic Religious Council (MUIS), which was established under the Administration of Muslim Law Act. The MUIS advises the Government on the Muslim community's concerns, maintains regulatory authority over Muslim religious matters, and oversees a Mosque Building Fund financed by voluntary payroll deductions.

In 2002, four sets of Muslim parents challenged the country's ban on girls wearing the traditional Muslim headscarf (*tudung*) in school. When the parents refused to heed school warnings regarding the ban, the four 6-year-old girls were suspended. One subsequently returned to school at mid-year and another moved to Australia. The parents of the other two initially filed lawsuits against the ban, but withdrew the complaint during the year.

Under the Societies Act, the Government bans meetings of Jehovah's Witnesses and the Unification Church. The Government deregistered and banned Jehovah's Witnesses in 1972 on the grounds that its approximately 200 members refused to perform obligatory military service, salute the flag, or swear oaths of allegiance to the State. The Government regarded such refusals as prejudicial to public welfare and order. While the Government did not outlaw the profession or propagation of the beliefs of Jehovah's Witnesses and does not arrest members merely for being believers, the result of deregistration was to make meetings of Jehovah's Witnesses illegal. The community now numbers approximately 2,000 in the country, and Jehovah's Witnesses continue to refuse to perform national military service. The Government also banned all written materials published by the Jehovah's Witnesses' publishing affiliates, the International Bible Students Association and the Watch Tower Bible and Tract Society. In July, the authorities confiscated a Bible, published by the Watch Tower Bible and Tract Society, from a member of the Jehovah's Witnesses as he entered the country. A person in possession of banned literature can be fined up to \$1,140 (S\$2,000), and for holding a meeting, the fine can be as high as \$2,285 (S\$4,000). During the year, the authorities seized Jehovah's Witnesses' literature on 30 occasions from individuals attempting to cross the Malaysia-Singapore land border. In 13 cases, authorities warned the Jehovah's Witnesses, but did not press charges. The other 17 cases remain open.

During the year, the Ministry of Education indefinitely suspended eight students who were members of Jehovah's Witnesses for failure to sing the national anthem and participate in the flag ceremony. This brings to 30 the number of such cases since 2000. All 30 students have made alternate schooling arrangements; none have returned to public school. The students can return if they are prepared to sing the anthem, salute the flag, and say the pledge of allegiance. In 2001, a long-time public school teacher, who was a member of the Jehovah's Witnesses, resigned after being threatened with dismissal and disciplinary action for refusing to sing the national anthem.

Missionaries, with the exception of members of Jehovah's Witnesses and representatives of the Unification Church, were permitted to work, publish, and distribute religious texts. However, while the Government did not prohibit evangelical activities in practice, it discouraged activities that could upset inter-communal relations, such as unsolicited public proselytizing.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides citizens the right to move freely throughout the country; however, while the Government generally respected this right in practice, it limited it in a few respects. For example, citizens' choice of where to live sometimes was limited by the Government's policy of assuring ethnic balance in publicly subsidized housing, in which the great majority of citizens lived (see Sections 1.f. and 5). The Government required all citizens and permanent residents over the age of 15 to register and to carry identification cards. The Government may refuse to issue a passport and did so in the case of former ISA detainees. Under the ISA, a person's movement may be restricted. In December 2001 and in August 2002, five persons who were detained and questioned for possible terrorist activities were later released under restriction orders; the exact nature of the restrictions was not disclosed.

The right of voluntary repatriation was extended to holders of national passports. The Government actively encouraged citizens living overseas to return home or at least to maintain active ties with the country. A provision of law for the possible loss of citizenship by citizens who resided outside the country for more than 10 consecutive years seldom was used.

Men are required to serve 24 to 30 months of national service upon turning 18 years of age. They also are required to undergo reserve training up to the age of 40 (for enlisted men) or 50 (for officers). Male citizens with national service reserve obligations are required to advise the Ministry of Defense if they plan to travel abroad. Boys aged 11 to 16½ years are issued passports that are valid for 2 years and are no longer required to obtain exit permits. From the age of 16½ until the age of enlistment, male citizens are granted 1-year passports and are required to apply for exit permits for travel that exceeds 3 months.

The law stipulates that former members of the Communist Party of Malaya (CPM) residing outside the country must apply to the Government to be allowed to return. They must renounce communism, sever all organizational ties with the CPM, and pledge not to engage in activities prejudicial to the country's internal security. In addition, the law requires them to submit to an interview by the Internal Security Department and to any restrictive conditions imposed on them.

The law does not provide for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government provides protection against refoulement but does not grant refugee or asylum status. A small number of ethnic Chinese persons from Indonesia have entered the country as visitors for temporary stays during episodes of racial or religious strife.

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

The Constitution provides citizens with the right to change their government peacefully. Opposition parties are free to contest elections, and the voting and vote-counting systems are fair and free from tampering; however, the PAP, which has held power continuously and overwhelmingly for more than 3 decades, has used the Government's extensive powers to place formidable obstacles in the path of political opponents. In 2001, a general election was held. The Prime Minister requested dissolution of Parliament more than 6 months before the end of its full term. The opposition contested only 29 of 84 seats and won only 2 seats. There were no opposition allegations of irregularities in the casting or counting of votes in the election. The opposition continued to criticize what it described as PAP abuse of its incumbency advantages to extensively handicap opposition parties. The PAP maintained its political dominance in part by developing voter support through effective administration and its record in bringing economic prosperity to the country, and in part by manipulating the electoral framework, intimidating organized political opposition, and circumscribing the bounds of legitimate political discourse and action. The belief that the Government might directly or indirectly harm the employment prospects of opposition supporters curtailed opposition political activity; however, there were no confirmed cases of such retaliation. As a result of these and other factors, opposition parties were unable to seriously challenge the ruling party. The PAP claimed that the lack of an effective opposition was due to disorganization, weak leadership, and a lack of persuasive alternative policies.

The country has a parliamentary system in which the majority party in Parliament has the authority to constitute the Government, which is headed by a Prime Minister. The parliamentary term is for no more than 5 years after the first sitting of Parliament following a general election. Parliament may be dissolved early by presidential proclamation, which normally follows a request by the Prime Minister. Elections must be held within 3 months of Parliament's dissolution. Following the 2001 elections, the PAP held 82 of 84 elected seats; the opposition Singapore People's Party and the Workers' Party each held 1 seat. A constitutional amendment allows at least three opposition members in Parliament even if fewer than three actually were elected. Following the elections, the Government allotted a non-constituency seat to Singapore Democratic Alliance candidate Steve Chia, the opposition candidate who had obtained the highest share of the vote without winning a seat. In addition, a parliamentary committee nominated and the President appointed Nominated Members of Parliament (N.M.P.s) for 2-year terms. In July 2002, nine N.M.P.s were appointed by the President. The voting rights of non-constituency members and N.M.P.s were restricted.

The PAP has an extensive grassroots system and a carefully selected, highly disciplined membership. The establishment of government-organized and predominantly publicly funded Community Development Councils (CDCs) has further

strengthened the PAP's position. The Councils promote community development and cohesion and provide welfare and other assistance services. The PAP dominates the CDCs even in opposition-held constituencies and has used the threat of withdrawing benefits. During the last two election campaigns, the Prime Minister and other senior government officials warned voters that precincts that elected opposition candidates would have the lowest priority in government plans to upgrade public housing facilities. This statement heightened concerns among some observers about voters' genuine freedom to change their government.

The PAP completely controlled key positions in and out of government, influenced the press and courts, and limited opposition political activities. Often these means were fully consistent with the law and the normal prerogatives of the Government, but the overall effect (and many argued the ultimate purpose) was to disadvantage and weaken political opposition. For example, the Government altered dramatically the boundaries of election districts only 17 days before the 2001 general election, abolishing some constituencies and adjusting the borders of many other constituencies. Since 1988, it has changed all but nine single-seat constituencies into Group Representational Constituencies (GRCs) of three to six parliamentary seats, in which the party with a plurality wins all of the seats. According to the Constitution, such changes are permitted to ensure ethnic minority representation in Parliament; each GRC candidate list must contain at least one Malay, Indian, or other ethnic minority candidate. However, these changes made it more difficult for opposition parties, all of which had very limited memberships, to fill multimember candidate lists. The PAP did not suffer from this disadvantage.

Although political parties legally were free to organize, they operated under the same limitations that applied to all organizations, and the authorities imposed strict regulations on their constitutions, fundraising, and accountability (see Section 2.b.). There are 24 registered political parties in the country; however, only 6 of these are active. Political parties and organizations were subject to strict financial regulations, including a ban on receiving foreign donations. Government regulations hindered attempts by opposition parties to rent office space in government housing or to establish community foundations. In addition, government influence extended in varying degrees to academic, community service, and other NGOs.

The Films Act bans political films and recorded televised programs, putting opposition parties at a disadvantage. The ban, which ostensibly was to prevent the sensationalist or emotional effect that video or film productions could have on political issues, applied to the PAP as well as to the opposition parties. Nonetheless, it had the effect of denying opposition parties, which already received far less coverage than did the PAP in the government-influenced press and media, a potential outlet for their political messages. The law regulates the use of the Internet by political parties and others for political purposes during election campaigns (see Section 2.a.).

The threat of civil libel or slander suits, which government leaders often used against political opponents and critics and consistently won, had a stifling effect on the full expression of political opinion and disadvantaged the political opposition (see Section 2.a.). Large judgments in libel suits can lead to bankruptcy, and under the law, bankrupt persons are ineligible to sit in Parliament. The Penal Code also provides for criminal defamation offenses. In July 2002, police opened criminal defamation investigations against two individuals (see Section 2.a.).

In the past, the Government also used parliamentary censure or the threat of censure to humiliate or intimidate opposition leaders. Government entities also used libel or slander suits, and dismissal from positions in government-related entities, to intimidate prominent opposition politicians.

The duties of the President are largely ceremonial. Nonetheless, the President has significant budget oversight powers, as well as some powers over civil service appointments and internal security affairs. The President is popularly elected for a 6-year term from among candidates who are approved by a constitutionally prescribed committee to meet specified requirements. Candidates cannot be nominated for the position if they are members of political parties. No election was held for President in 1999, after the committee decided that the government-backed candidate met the constitutional requirements, but that the other two nominees did not. The Government placed significant obstacles in the way of opposition political figures' Presidential candidacy. For example, opposition members were much less likely to satisfy the requirement that candidates have experience in managing the financial affairs of a large institution, since many of the country's large institutions are government-run or linked to the Government. Opposition political figures asserted that such strict compliance requirements weakened their parties.

Voting was compulsory, and women and minorities voted at approximately the overall 95 percent rate in contested constituencies. There was no legal bar to the participation of women in political life; women held only 10 of the 84 elected par-

liamentary seats, an increase from 6 female Members of Parliament (M.P.s) in the previous Parliament. During the year, there were no female ministers, but 3 of the 14 Supreme Court justices were women.

There was no restriction in law or practice against minorities voting or participating in politics; they actively participated in the political process and were well represented throughout the Government, except in some sensitive military positions. Malays make up approximately 15 percent of the general population and hold approximately the same percentage of regularly elected seats in Parliament. Indians make up approximately 7 percent of the general population and hold approximately 10 percent of the regularly elected seats in Parliament. Minority representation in Parliament is, in part, the result of a legal requirement that candidate slates in every multi-seat constituency have at least one minority representative. There is one ethnic Malay minister and one ethnic Indian minister. Two of the 14 Supreme Court justices are ethnic Indian; there are no Malays on the Court.

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

Efforts by independent organizations to investigate and evaluate government human rights policies faced the same obstacles as those faced by opposition political parties. NGOs were subject to registration under the Societies Act (see Section 2.b.). Some domestic NGOs criticized restrictions on human rights or suggested changes that would relax or remove restrictions. In 2001, two organizations that criticized the Government on human rights grounds were declared "political" organizations by the Government, but their operations were unaffected (see Section 2.b.).

There is a Presidential Council on Minority Rights that monitors pending legislation for anything possibly disadvantageous to minorities (see Section 5).

In recent years, the Government permitted international human rights organizations to observe human rights related court cases. In 2001, opposition politician J.B. Jeyaretnam's bankruptcy appeal was witnessed by a Canadian observer, who acted as a representative of both Amnesty International and the Lawyers' Rights Watch in Canada. In February, two representatives from the LCHR attended opposition figure Chee Soon Juan's appeal of a summary judgment in the defamation suits filed against him by Prime Minister Goh Chok Tong and Senior Minister Lee Kuan Yew (see Section 1.e.).

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

The Constitution states that all persons are equal before the law and entitled to the equal protection of the law, and the Government generally respected these provisions in practice. The Constitution contains no explicit provision granting equal rights for women and minorities. Mindful of the country's history of inter-communal tension, the Government took measures to ensure racial, ethnic, religious, and cultural nondiscrimination. Social, economic, and cultural benefits and facilities were available to all citizens regardless of race, religion, or sex. However, men did not have the right to seek alimony from their wives in cases of divorce or separation. In October 2002, the Ministry of Community Development and Sports denied a proposal that would have entitled men to seek alimony. Moreover, women are not required to do national service; virtually all males must do 2 years of fulltime national service at the age of 18, with continuing reserve requirements thereafter.

Some individuals with HIV/AIDS claimed they were socially marginalized and faced employment discrimination if they revealed they were suffering from the disease. The Government discouraged discrimination, supported initiatives that counter misperceptions about HIV/AIDS, and praised employers that welcome workers with HIV/AIDS.

Women.—The Penal Code and the Women's Charter criminalize domestic violence and sexual or physical harassment; however, violence or abuse against women occurred. A victim of domestic violence can obtain court orders barring the spouse from the home until the court is satisfied that the spouse has ceased aggressive behavior. The number of court orders for protection against violent family members has increased in recent years, in part because the definition of violence includes intimidation, continual harassment, or restraint against one's will. The Penal Code prescribes mandatory caning and a minimum imprisonment of 2 years for conviction on any charge of "outraging modesty" that caused the victim fear of death or injury. The press gave fairly prominent coverage to instances of abuse or violence against women. There were several organizations that provided assistance to abused women. The Association of Women for Action and Research (AWARE) ran a hotline that offered counseling and legal advice. The Family Protection and Welfare Service, an office of the Ministry of Community Development and Sports, documented physical and psychological abuse, and provided counseling and other support services to

abused women. In 1999, the Council of Women's Organizations established a crisis center for abused persons. The Star shelter accepted children, women, and men, and can accommodate up to 30 persons. The Government enforced the law against rape, which provides for imprisonment of up to 20 years and caning for offenders. Under the law, rape can only be committed by a man, and spousal rape is not a crime; however, husbands who force their wives to have intercourse can be prosecuted for other offenses, such as assault.

The country's laws neither ban nor authorize prostitution per se. However, public solicitation, living on the earnings of a prostitute, and maintaining a brothel are illegal. The authorities periodically carried out crackdowns on solicitation for prostitution, and arrested and deported foreign prostitutes, particularly when their activities took place outside of informally designated red light areas. In practice, police unofficially tolerated and monitored a limited number of brothels; prostitutes in such establishments were required to undergo periodic health checks and carry a health card.

Trafficking in women occurred (see Section 6.f.).

Women currently account for 54 percent of civil service employees. They enjoyed the same legal rights as men in most areas, including civil liberties, employment, commercial activity, and education. The Women's Charter gives women, among other rights, the right to own property, conduct trade, and receive divorce settlements. Muslim women enjoyed most of the rights and protections of the Women's Charter. For the most part, Muslim marriage law falls under the administration of the Muslim Law Act, which empowers the Shari'a (Islamic law) court to oversee such matters. The laws allow Muslim men to practice polygyny, although requests to take additional spouses may be refused by the Registry of Muslim Marriages, which solicits the views of an existing spouse or spouses and reviews the financial capability of the husband. Of the 4,000 Muslim marriages registered in 2001, only 20 were polygynous. Both men and women have the right to initiate divorce proceedings; however, in practice, women faced significant difficulties that often prevented them from pursuing proceedings, especially the lack of financial resources to obtain legal counsel.

Women constituted 42 percent of the labor force and were well represented in many professions but held few leadership positions in the private sector. They still preponderantly were found in low-wage jobs such as clerks and secretaries; however, there were some women who held senior corporate leadership positions. The overall average salary of women was 72 percent of that of men. The wage gap has narrowed over the past 5 years in many occupations; in some sectors, women earn more than their male counterparts. Observers noted that the wage differential was smaller in professional jobs, and that wage disparities could be attributed in part to differences in average educational levels and work experience. In 2002, the Government announced a change to the Medical Registration Act, which eliminates a quota on the number of female medical students who can be admitted to the National University of Singapore.

There were no specific laws prohibiting stalking or sexual harassment, and sexual harassment was not considered a significant issue. However, the Miscellaneous Offences Act and laws prohibiting insults to modesty were used successfully to prosecute such offenses.

Women were unable to automatically transmit citizenship to a child born abroad, but could apply for citizenship on the child's behalf. The children of male citizens automatically acquired citizenship at birth. Women were able to sponsor non-citizen husbands for citizenship as of 1999.

Children.—The Government demonstrated its strong commitment to children's rights and welfare through its well-funded systems of public education and medical care. Access to public education and medical care was equal for all children. Legislation making 6 years of education in public schools compulsory for students entering school took effect during the year. Although school attendance previously was not compulsory, virtually 100 percent of children were enrolled through grade 6, and the dropout rate for secondary school was low. The Children and Young Persons Act established protective services for orphaned, abused, disabled, or troubled children, and created a juvenile court system. The Ministry of Community Development and Sports worked closely with the National Council for Social Services to oversee children's welfare cases. Voluntary organizations operated most of the homes for children, while the Government funded up to 50 percent of all child costs, which included normal living expenses and overhead, as well as expenses for special schooling, health care, or supervisory needs. In some cases, the Government covered 100 percent of such costs.

Child prostitution occurred. In 2002, the Ministry of Home Affairs discovered 66 foreign children under the age of 18 it suspected were involved in prostitution. Sex-

ual intercourse with girls under the age of 16 is illegal, but there is no legal prohibition on commercial sex with "consenting" partners aged 16 and 17. However, authorities have the power to detain persons under the age of 21 who are believed to be engaged in prostitution, as well as to prosecute those who organize or profit from prostitution, who bring women or girls to Singapore for prostitution, or who coerce or trick women or girls into prostitution.

The Ministry for Community Development and Sports sponsored activities promoting children's causes, including family stability. This agency and several NGOs focused on keeping fathers involved in their children's lives and on preventing child abuse.

Persons with Disabilities.—The Government maintained a comprehensive code on barrier-free accessibility; this established standards for facilities for persons with physical disabilities in all new buildings and mandated the progressive upgrading of older structures. There was no legislation addressing equal opportunities for persons with disabilities in education or employment. However, the National Council of Social Services, in conjunction with various voluntary associations, provided an extensive job training and placement program for persons with disabilities. A tax deduction of up to \$57,000 (S\$100,000) was available to employers to defray building modifications to benefit employees with disabilities. Informal provisions in education have permitted university matriculation for visually impaired, deaf, and physically disabled students. There were 19 special education schools that enrolled 4,200 students. It is expected that upon completion of retrofitting, one out of every eight schools will be accessible to handicapped students. The Government also set aside funds for 6 childcare centers to take in a total of 60 children with special needs.

The Government allowed a tax deduction of up to \$2,000 (S\$3,500) per individual for families caring for a sibling, spouse, or child with a disability. Mental and physical disabilities were treated in the same way. Press coverage of the activities and achievements of persons with disabilities was extensive, and discrimination or abuse of persons with disabilities did not appear to be a problem.

National/Racial/Ethnic Minorities.—Ethnic Malays constituted approximately 15 percent of the total population. The Constitution acknowledges them as the indigenous people of the country and charges the Government to support and to promote their political, educational, religious, economic, social, cultural, and language interests. The Government took steps to encourage greater educational achievement among Malay students as a key to economic advancement. However, ethnic Malays have not yet reached the educational or socioeconomic levels achieved by the ethnic Chinese majority, the ethnic Indian minority, or the Eurasian community. Malays remained underrepresented at senior corporate levels, and, some assert, in certain sectors of the Government and the military. This reflected their historically lower educational and economic levels, but some argued that it also was a result of employment discrimination. The Government has issued guidelines that call for eliminating language referring to age, gender, or ethnicity in employment advertisements; restrictive language pertinent to job requirements, such as "Chinese speaker" or "physically strong," remains acceptable. These guidelines were generally followed.

The Presidential Council on Minority Rights examined all pending bills to ensure that they were not disadvantageous to a particular group. It also reported to the Government on matters that affected any racial or religious community and investigated complaints.

The Government enforced ethnic ratios for publicly subsidized housing, where the majority of citizens lived and owned their own units, a policy designed to achieve an ethnic mix more or less in proportion to that of society at large.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides all citizens with the right to form associations, including trade unions; however, Parliament may impose restrictions based on security, public order, or morality grounds. The right of association was restricted by the Societies Act and by labor and education laws and regulations. Under these laws, any group of 10 or more persons is required to register with the Government. The Trade Unions Act authorizes the formation of unions with broad rights, albeit with some narrow restrictions such as prohibitions on the unionization of uniformed personnel. The Trade Unions Act prohibits government employees from joining trade unions, but the President has the power to make exceptions to this provision. The Amalgamated Union of Public Employees was declared exempt from these provisions, and its scope of representation was expanded over the years to cover all public sector employees except the most senior civil servants. The Trade Union Act restricts the right of trade unions to elect their officers and whom they may employ. Foreigners and those with criminal convictions may not hold

union office or become employees of unions. However, the Minister of Manpower could grant exemptions. The Government granted two foreign citizens permission to serve on the executive committee of the Airline Pilots Association of Singapore, the Singapore Airlines pilots' union. In December, the Government revoked this permission and invoked both Singapore Airlines and the pilots to adopt moderate positions in upcoming contract negotiations (see Section 6.b.). The Act limits the objectives on which unions can spend their funds and prohibits payments to political parties or the use of funds for political purposes. According to government statistics, the national labor force was made up of approximately 2.12 million workers, nearly 390,000 of whom were represented by 70 unions. Almost all of the unions (which represented virtually all of the union members) were affiliated with the National Trades Union Congress (NTUC), an umbrella organization with a close relationship with the Government.

The NTUC acknowledged that its interests were linked closely with those of the ruling PAP, a relationship often described by both as symbiotic. The NTUC's Secretary General (SG), Lim Boon Heng, a PAP M.P., was a member of the Cabinet as Minister in the Prime Minister's Office. Young PAP M.P.s with no union experience were often elected to leadership positions in the NTUC or a member union. The NTUC policy prohibited union members who supported opposition parties from holding office in affiliated unions. In November 2002, the branch chairman of a union affiliated with NTUC was elected secretary general of the Singapore Democratic Alliance—an opposition body. In December 2002, he was stripped of both his union position and his membership in the union by the NTUC. He unsuccessfully attempted to secure a reversal of the decision, but the NTUC's advisory council denied his appeal. While the NTUC is financially independent of the PAP, the two share a common ideology and work closely with management in support of non-confrontational labor relations. The NTUC is free to associate regionally and internationally and is a member of the International Confederation of Free Trade Unions (ICFTU). The country is a member of the International Labor Organization (ILO).

b. The Right to Organize and Bargain Collectively.—Collective bargaining was a normal part of labor-management relations in the industrial sector. Collective agreements must be certified by the tripartite Industrial Arbitration Court (IAC) before going into effect. The IAC could refuse certification at its discretion on the ground of public interest. Transfers and layoffs were excluded from the scope of collective bargaining. However, in practice, employers did consult with unions on both issues, and the Tripartite Panel on Retrenched Workers issued guidelines calling for early notification to unions of layoffs. Disputes could be settled through discussions with the Ministry of Manpower. If conciliation fails, the parties may submit their cases to the IAC. In limited situations, the law provides for a system of recourse to compulsory arbitration, which can put an end to collective bargaining at the request of only one of the parties. However, the compulsory arbitration clause has not been used since 1980. Agreements between management and labor were renewed every 2–3 years, although wage increases were negotiated annually. Yearly guidelines on raises and bonus pay issued by the National Wages Council (NWC), a group composed of labor, management, and government representatives, served as the starting point for bargaining agreements. Subject to negotiation in each enterprise, up to 10 percent of salaries were considered “variable” each month, allowing companies to eliminate that portion of pay if there were financial problems. The intent is to enable companies to adjust wages quickly in a changing business environment and minimize job losses.

Workers in “essential services” are required to give 14 days notice to an employer before striking, and there is a prohibition on strikes by workers in the water, gas, and electricity sectors. Other workers have the legal right to strike but rarely did so. There were no specific laws that prohibited retaliation against strikers. The law provides that before striking, unionized workers must vote in favor of the strike by secret ballot. In August 2002, Singapore Airlines (SIA) pilots came close to taking “work to rule” action on a dispute over working conditions; in a “work to rule” action, the pilots would hamper airline operations by doing only the minimum amount required under their contract. The airline pilot union is the only significant union not affiliated with the NTUC. During the year, SIA sought to cut pilots' pay in response to a sharp travel slump amid the SARS epidemic; after unsuccessful talks with the union, SIA indicated it would seek official mediation through the Industrial Arbitration Court. In December, citing the “strategic” importance of SIA to the country's economic success, the Government publicly warned the pilots' union against unreasonable contract demands and announced it would amend the Trade Unions Act to rescind the right of union members to vote on collective bargaining agreements. Unlike other unions, only the pilots' union has its members take such a vote on contracts. The move came as the pilots prepared to negotiate a new contract with

SIA; the Government urged both pilots and SIA to adopt moderate positions in the negotiations. Most disagreements are resolved through informal consultations with the Ministry of Manpower. If conciliation fails, the disputing parties usually submit their case to the Industrial Arbitration Court, which is composed of representatives from labor and management, and chaired by a judge. Besides these labor dispute mechanisms and the close working relationship and shared views among labor, management, and the Government, the maintenance of labor peace has been a product of high economic growth rates, regular wage increases, and a high degree of job mobility in a virtual full-employment economy. In addition, the widely held view that labor conflict would undermine the country's economic competitiveness and attractiveness to investors, compounded with a cultural aversion to confrontation, helped to maintain a harmonious labor situation.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred. Under sections of the Destitute Persons Act, any indigent person may be placed in a welfare home and assigned suitable work. The ILO criticized the coercive terms of this act, which included penal sanctions not in compliance with the ILO Convention on Forced Labor. The Government maintained that the Act was social legislation providing for the shelter, care, and protection of destitute persons, and that work programs were designed to reintegrate individuals into society.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Government enforced the Employment Act, which prohibits employment of children under the age of 12. Restrictions on the employment of children between the ages of 12 and 16 are rigorous and fully enforced. Children under the age of 14 generally are prohibited from employment in the industrial sector. Exceptions include family enterprises; children may work in a business in which only members of the same family are employed. A child of 12 or older may be employed in light work, subject to medical clearance. Employers have to notify the Commissioner of Labor within 30 days of hiring a child between the ages of 14 and 16 and attach a medical certification of the child's fitness for employment. The incidence of children in permanent employment was low, and abuses were almost nonexistent.

Ministry of Manpower regulations prohibit night employment of children and restrict industrial work for children between the ages of 14 and 16 to no more than 7 hours a day, including the hours spent in school. Children may not work on commercial vessels, with moving machinery, on live electrical apparatus lacking effective insulation, or in any underground job. The Minister of Manpower effectively enforced these laws and regulations.

e. Acceptable Conditions of Work.—There are no laws or regulations on minimum wages or unemployment compensation. However, the National Wages Council, a tripartite body consisting of representatives from government, labor, and business, monitored the economy and made annual recommendations to the Government concerning wage guidelines. The labor market offered good working conditions and relatively high wages, which provided a decent standard of living for a worker and family.

The Employment Act sets the standard legal workweek at 44 hours and provides for 1 rest day each week.

The Ministry of Manpower effectively enforces laws and regulations establishing working conditions and comprehensive occupational safety and health laws. Enforcement procedures, coupled with the promotion of educational and training programs, were implemented to reduce the frequency of job-related accidents. While a worker had the right under the Employment Act to remove himself from a dangerous work situation, his right to continued employment depended upon an investigation of the circumstances by the Ministry of Manpower.

Because of a domestic labor shortage, approximately 600,000 foreign workers were employed legally, constituting about 30 percent of the total work force. There were no reliable estimates of the number of foreigners working illegally. Most foreign workers were unskilled laborers and household servants from other Asian countries. Foreign workers faced no legal wage discrimination. However, they were concentrated in low-wage, low-skill jobs and were often required to work long hours. Most foreign construction workers live on worksites in substandard conditions.

Although the great majority of the approximately 140,000 maids (mainly from the Philippines, Indonesia, and Sri Lanka) worked under clearly outlined contracts, their low wages, dependence on their employers for food and lodging, and relative isolation made them vulnerable to mistreatment and abuse. In response to concern about cases of maid abuse, the Government amended the Penal Code in 1998 increasing the maid. The authorities fined or imprisoned employers who abuse maids,

often with great publicity. During the year, eight employers were convicted of abusing their maids, and the Ministry of Manpower blacklisted 19 employers during the first 6 months of the year. Prison sentences have ranged from 7 weeks for one woman to 6 years and 12 strokes of the cane for a male employer convicted on three counts of molesting his maid. Debate on how to prevent abuse of maids was ongoing at year's end. Substantiated cases of abuse of foreign maids fell by almost 50 percent following the 1998 amendment strengthening legal penalties. In 2002, there were 43 substantiated cases of maid abuse as compared with 89 in 1998. According to the Ministry of Manpower, there were 19 substantiated cases of maid abuse in the first half of the year. Police also investigated one employer's allegation that a recruitment agency abused a maid while she was at the agency's office.

Most maids worked 6 days per week from very early morning until late in the evening. Many contracts allowed only 1 day off per month. Contracts often stipulated that, even when not working, a maid was required to remain on the premises unless on official duties or on her day off. Maids often had to set aside most or all of their wages for the first several months of employment to reimburse their placement agents. Work permits for low-wage foreign workers could be cancelled if a worker applied to marry or married a citizen or permanent resident.

The Employment Act protects foreign workers, such as the many employed in the construction industry; however, domestic servants are not covered by the Act and are not eligible for limited free legal assistance from the Government. However, the Ministry of Manpower offered conciliation services for all employees, foreign or local. The Foreign Workers Unit of the Ministry of Manpower provided free advisory and mediation services to foreign workers experiencing problems with employers. The Government allowed complainants to seek legal redress.

f. Trafficking in Persons.—The law prohibits trafficking in persons; however, trafficking in persons occurred.

Almost all sex workers were foreign; most originated in Thailand, the Philippines, Malaysia, China, Indonesia, Vietnam, India, or Sri Lanka. Almost all foreign prostitutes were aware when they entered the country that they were going to be employed as prostitutes. While prostitution is not an offense per se, public solicitation is illegal. Police periodically carried out crackdowns on prostitutes, particularly those operating outside of informally designated red light areas (see Section 5). Foreign prostitutes detained in these raids usually were deported quickly. Foreign prostitutes and maids were deported immediately if they tested positive for pregnancy, or HIV/AIDS or other sexually transmitted diseases.

Authorities prosecuted some cases of trafficking. In May, authorities charged five individuals with forcing a 12-year old Malaysian girl into prostitution after promising her employment in Singapore as a maid. Two of those charged pleaded guilty and were sentenced to 12 years in prison; one of these two was also sentenced to be caned six strokes. The trial of the other three lasted 10 days. One was convicted of rape and sentenced to 12 years in prison and 12 strokes of the cane. The other two were convicted of conspiring to recruit men to rape the girl. One was sentenced to 12 years and six strokes of the cane; the other received a 13-year sentence, 12 strokes of the cane and a \$5,700 (S\$10,000) fine.

The three major laws that governed trafficking and prostitution are the Women's Charter, the Children and Young Person's Act, and the Penal Code. Trafficking in women and children, whether or not it is related to prostitution, is punishable by up to 5-years imprisonment, a \$5,700 (S\$10,000) fine and caning. Traffickers could be prosecuted under the Penal Code's "wrongful constraint" provision, which carries maximum punishments of 10 years imprisonment and a fine. Convicted traffickers could be found guilty of violating more than one law. There was no specific campaign to combat or prevent the use of fraud or coercion to recruit foreign women as prostitutes, although some persons were prosecuted and punished for crimes involving such acts.

In practice, successful investigation and prosecution of trafficking in persons required that victims remain in or returned to the country to testify. Victims were urged by police to remain in the country until the case was prosecuted and generally they did; however, some abused domestics left and were brought back to testify. Victims did not receive government assistance during this period or at other times, and indicated they sometimes were not granted permission for alternative employment and were dependent on support from their embassy. NGOs did not provide assistance to trafficking victims. Laws prohibiting the harboring, aiding, or abetting of illegal immigrants could hamper assistance to trafficking victims by putting NGOs in the position of harboring a victim who has no legal status; however, no such cases are known to have occurred. The authorities notified embassies of the arrest of nationals, including for prostitution-related offenses, and allowed consular access. Prostitutes rarely contacted embassies voluntarily, unless detained for solicitation

or immigration offenses during police sweeps. However, victims of crimes, including domestics alleging abuse, sometimes requested and received assistance from their embassies.

SOLOMON ISLANDS

The Solomon Islands has a modified parliamentary system of government consisting of a single-chamber Legislative Assembly of 50 members. Executive authority is vested in the Prime Minister, who is elected by a majority vote of Parliament, and his Cabinet. A new Parliament was elected in 2001 with Sir Allan Kemakeza as Prime Minister; elections were considered generally free and fair. Since 1998, conflict between two of the main ethnic groups in the country—the Malaitans and the Guadalcanalese—has forced thousands of Malaitans residing on Guadalcanal from their homes, and in June 2000, armed Malaitan militants took over Honiara, the capital. The Malaitan militants forced the then-Prime Minister to resign. Although a peace agreement formally ending the conflict was signed in October 2000, subsequent governments had limited success in their efforts to restore peace, due to political and institutional weaknesses and the public's perception that their leaders were beholden to one or the other of the conflicting parties. In late July, the Regional Assistance Mission for Solomon Islands (RAMSI), a multinational police-centered force organized by Australia, arrived in the country at the invitation of the Government and began to assist the Government in restoring law and order and rebuilding the country's institutions. The Constitution provides for an independent judiciary; however, prior to RAMSI's arrival, the judiciary was hampered by police ineffectiveness, lack of resources, and threats against judges and prosecutors.

A police force under a civilian police commissioner is responsible for law enforcement, internal security, and border security. Following the 2000 takeover of Honiara by Malaitan militants, the police force became factionalized and did not function effectively. The civilian authorities did not maintain effective control over all elements of the security forces before the arrival of RAMSI in July. Some members of the security forces, in particular the paramilitary police unit and untrained former militants who had been taken into the police force in 2001 as "special constables," committed numerous serious human rights abuses prior to RAMSI's arrival.

The economy is market based. Approximately 75 percent of the population of 480,000 engaged to some extent in subsistence farming and fishing and had little involvement in the cash economy. With the breakdown of law and order, the formal sector of the economy was on the brink of collapse at the time of RAMSI's intervention. The Government was insolvent, and most nonsubsistence economic activities had ceased, including plantation production of copra, cocoa, and palm oil, a fish canner, a gold mine on Guadalcanal, and small resort and diving enterprises. Only the logging industry continued to operate, albeit at a reduced level. Electricity and telecommunications services faced severe difficulties, and there were frequent power blackouts in Honiara. Health and education services faltered as medical workers and teachers went on strike over the Government's failure to pay salaries. The international airport occasionally closed due to strikes over similar issues.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Basic individual rights are provided for in the Constitution, but the armed conflict between Malaitan and Guadalcanalese militants led to a serious deterioration in the human rights situation, with numerous abuses committed by the police and by militant groups on both sides since 1998. All weapons were supposed to be surrendered during an amnesty period that ended in May 2002; however, hundreds of weapons were not surrendered, and a stable peace was not secured. During the first half of the year, the security situation worsened. In the capital, former militants, many of whom had been made "special constables," were responsible for a crime wave directed at both citizens and the Government. A militant leader operated with impunity in the countryside, and he and his supporters' violent acts included killings, rape, abduction, and looting and destruction of rural communities. The Government did not encourage any judicial or independent investigation of human rights abuses that occurred during the conflict, which contributed to a climate of impunity. The judicial system functioned poorly during the first half of the year due to the ongoing violence and a lack of resources.

In response to the deteriorating situation and at the Government's invitation, Australia initiated and organized RAMSI. Consisting of approximately 250 police from Australia, New Zealand, Fiji, and other countries in the region, RAMSI was backed by a strong military component of approximately 4,000 troops initially, later reduced to approximately 2,000. However, the security situation stabilized so quick-

ly that the military element was substantially withdrawn by year's end. At that point, the force largely had restored law and order in the capital and elsewhere in the country.

Violence and discrimination against women continued to be problems. At year's end, many victims of the ethnic conflict still remained displaced from their homes, although some had returned.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—In January, a masked gunman fatally shot retired Police Commissioner Sir Frederick Soaki in Auki, Malaita, where he was helping to prepare workshops organized by the U.N. Development Program (UNDP) concerning demobilization of the special constables. In March, police arrested a police sergeant for the murder; however, he later escaped from custody. At year's end, he was still at large and sought by the police, and the case remained under investigation.

During the first half of the year, rising violent crime rates and ethnic clashes between Malaitans and Guadalcanalese, encouraged by the absence of an effective police force, resulted in a substantial number of killings. Guadalcanal Liberation Front leader Harold Ke'ke and his followers on the Weathercoast were responsible for many killings, including seven members of an Anglican order, the Melanesian Brotherhood, who were killed after being abducted. In June, Ke'ke and his followers reportedly tortured and killed three men in Marasa and razed the village. In August, Ke'ke surrendered to RAMSI forces; he and a number of his followers were charged with murder and other crimes. Their cases were pending at year's end.

In May, an Australian Seventh Day Adventist missionary was attacked and beheaded near Atoifi Hospital in Malaita; police apprehended and arrested one of two suspects in the murder.

Following the arrival of the RAMSI force in July, the level of violence declined; by year's end, law and order largely had been restored throughout the country. At year's end, it remained unclear how many of those responsible for the many killings and other human rights abuses committed by both security forces and civilians during the half-decade of conflict and breakdown in law and order would be investigated or prosecuted; however, during the year, RAMSI investigated and arrested a number of police officers and militants who allegedly had committed murder and other criminal acts, and brought them to trial (see Sections 1.c. and 1.d.). At year's end, the trials were ongoing.

b. Disappearance.—There were no reports of politically motivated disappearances due to the actions of government officials. Militant leader Harold Ke'ke and his followers abducted and killed seven members of an Anglican religious order (see Section 1.a.) during the year; several novices of the order who also were abducted by Ke'ke's group later were released. Since the violence began in 1998, more than 100 persons have been abducted and possibly killed by militants.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, since 1998, there have been numerous reports of acts of torture and mistreatment attributed both to members of the police and to Malaitan and Guadalcanalese militants, although there were fewer reported instances during the year than in the previous 2 years. In 2000, the police office dealing with complaints about official police behavior, including excessive use of force, ceased to function as the national police force generally disintegrated.

In March, Amnesty International (AI) reported that special constables and their civilian supporters committed human rights abuses against civilians on Guadalcanal while assisting regular police officers in an operation begun in 2002 to capture militant leader Ke'ke. The abuses cited included beatings of villagers, rape, torture of the wives of suspected militants with heated wire, and razing of houses. The Government stated that the special constables involved acted without government authorization.

Ke'ke and his followers reportedly burned down Marasa village on the Weathercoast after killing three residents (see Section 1.a.); following Ke'ke's arrest in August, his followers reportedly burned down the villages of Chima and Poisuvu.

Following its arrival in July, RAMSI took action to apprehend and charge persons allegedly responsible for human rights abuses and other criminal acts. By year's end, more than 340 persons, including approximately 40 police officers and Ke'ke and other militants, were arrested. A total of more than 600 charges were lodged against them.

During the first part of the year, prison conditions were poor; after RAMSI made improvements later in the year, conditions generally met international standards.

In February, following a visit to the Rove national prison complex in Honiara, the national Ombudsman strongly criticized the facility as “unfit” for human habitation, citing problems with inadequate diet, substandard bathing and toilet facilities, and overcrowding. In March, AI reported that nine prisoners were diagnosed with a serious vitamin deficiency, believed to be scurvy. Escapes were common. Following its arrival in July, RAMSI completed work on new prison accommodations at Rove that had been halted a decade earlier due to lack of funds. In addition, RAMSI added exercise yards, a visitor center, and a new security fence. The new facility can accommodate 300 prisoners, somewhat more than the number incarcerated at year’s end.

In 2002, the national Ombudsman visited the small provincial jail at the regional capital of Gizo and announced that conditions there were in breach of human rights standards. Overcrowding and lack of resources to provide adequate meals for prisoners remained problems during the year; as many as 46 inmates were held in the jail, which was built to hold 14. However, RAMSI undertook some renovations during the year at both Gizo and the country’s other provincial prison at Aiki.

Men and women were held separately. Although the national prison in Honiara had separate facilities for juveniles, prior to RAMSI’s expansion of the facility, the national Ombudsman reported that some juveniles were housed together with adult prisoners. Pretrial detainees were not separated from convicted prisoners.

The Government permitted prison visits by human rights observers, including the International Committee of the Red Cross (ICRC).

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

A commissioner, who reports to the Minister of Police, heads the police force of approximately 1100 members. During the year, a British police official served as Commissioner on a contract funded by the British government.

Prior to RAMSI’s arrival, the police were largely ineffectual and the law and order situation had deteriorated to the point that gunmen regularly extorted funds from the Finance Ministry and the Prime Minister worked from his home because his office was not safe. Police corruption was a problem, and there was a lack of accountability for police officers involved in abuses. The situation improved after RAMSI’s arrival. By early December, nearly 40 police officers, including some of senior rank, had been arrested on more than 90 charges, including murder, assault, intimidation, robbery, and inappropriate use of firearms. RAMSI also re-established 16 police stations throughout the country.

Early in the year, the Government abolished the paramilitary Police Field Force (PFF), whose members allegedly committed numerous human rights abuses, and replaced it with a new special operations group, the STAR division; former PFF members who wished to transfer to the STAR division were required to undergo a new examination process. However, in December, citing continuing human rights concerns, the Government disbanded the STAR division.

In February, the Government began to demobilize the special constables, who also had been cited for numerous human rights abuses and other criminal acts. Under a UNDP assistance program, demobilized special constables were offered 6 months of business and vocational training and \$450 (3,000 Solomon Islands dollars) in small business start-up costs to help reintegrate them into civilian society. By year’s end, the special constables had been removed from the police rolls and over 800 had participated in the UNDP training program.

The law provides for a judicial determination of the legality of arrests. Officials found to have violated civil liberties are subject to fines and jail sentences. There was a functioning system of bail. However, in the first half of the year, the work of the judiciary was slowed considerably by the conflict. During the year, delays in adjudication of the large number of cases before the courts resulted in lengthy pre-trial detention for some prisoners.

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

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the courts were hampered by a lack of resources and by threats against the lives of judges and prosecutors.

The judicial system consists of a High Court, a Court of Appeals, and magistrates’ courts. Accused persons are entitled to counsel. In 1999, the Public Solicitor, who is charged with providing counsel to persons who cannot afford a private attorney, reported that due to limited resources, his office could accept only those cases in which persons faced serious charges or those involving the protection of children; this situation has continued.

Judicial trial procedures normally operated in accordance with British law, with a presumption of innocence, right of appeal, access to attorneys, and right to confront witnesses.

In the first half of the year, the judicial system barely functioned. The Government did little to investigate or prosecute persons responsible for killings and other abuses, contributing to a pervasive climate of impunity. In the last half of the year, RAMSI made the rehabilitation of the courts and judicial system a priority and increased the capacity of the courts to adjudicate cases, although backlogs in the investigation and prosecution of cases remained at year's end.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The law prohibits such actions, and the Government generally respected these prohibitions in practice. However, with the breakdown of law and order in 2000, there was widespread looting and burning of homes in rural Guadalcanal, including by police (see Section 1.c.).

From 1999 to 2001, militants from all sides forced inhabitants from their homes. Many of those forced out were not affiliated with the militant movements, and some were not even members of the combating ethnic groups. The forced expulsions ended during 2001, following the departure of virtually all non-Guadalcanalese from the areas of Guadalcanal Province adjacent to Honiara; none have returned.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.—Since ethnic conflict began in 1998, both police and militants have committed serious human rights abuses, including killings and abductions of civilians (see Sections 1.a, 1.b., and 1.c.). Militants have blocked the free and safe passage of relief supplies, food, and fuel, as well as access by humanitarian organizations to Guadalcanal. Red Cross volunteers and relief workers reported being threatened, harassed, and even fired upon by both Guadalcanalese and Malaitan militants, although the incidence of such attacks declined during the year. Red Cross and other volunteers were able to provide appropriate assistance in rural areas.

During the year, Guadalcanal militants allegedly burned down several villages (see Section 1.c.). Since the violent phase of the conflict on Guadalcanal began, some 30,000 Malaitans, Guadalcanalese, Western Province persons, and others living on Guadalcanal have been displaced from their homes (see Section 2.d.). The arrival of RAMSI has seen the return of the majority of internally displaced Guadalcanalese to their former villages; however, many Malaitans and other ethnic group members remained displaced (see Section 5). U.N. human rights officials confirmed the use of child soldiers by both Guadalcanalese and Malaitan militants during the ethnic conflict (see Sections 5 and 6.c.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. During the year, print and broadcast media continued to operate on a regular basis.

There was a privately owned daily and a privately owned weekly newspaper. The Solomon Islands Broadcasting Corporation (SIBC), a statutory body directly under the Prime Minister's office, broadcast to most of the country; however, due to technical problems, SIBC reception on the outer islands was limited to early morning and evening hours. There also were two privately owned FM radio stations. Two television channels broadcast Australia's Asia-Pacific service and BBC International to Honiara and its environs.

Given the high rate of illiteracy, radio broadcasting was more influential than the print media. At least two nongovernmental organizations (NGOs) published periodic news journals; their environmental reporting was frequently critical of the Government's logging policy and foreign logging companies' practices.

In September, the mayor of Honiara allegedly went to the office of the Solomon Star newspaper and demanded that the paper stop coverage of matters relating to the City Council; the Council had criticized the paper's coverage of its affairs.

In 2002, Minister for Communications Daniel Fa'funua and several armed supporters allegedly coerced the Solomon Star newspaper into paying him \$1,000 for publishing an article that he claimed had insulted him. In November, police arrested Fa'funua after an unrelated incident; among other offenses, he was charged with "demanding money with menaces" in the Solomon Star case. The case remained pending at year's end.

According to local news reports, in July, a New Zealand television crew covering the export of dolphins from the country reported that members of a local militia chased them and assaulted their local driver as they were filming captive dolphins on a Honiara beach.

Internet use was expanding, and privately operated Internet cafés were available in Honiara and Gizo; the Government did not limit or control Internet access.

The Government did not restrict academic freedom. Foreign assistance enabled the country's College of Higher Education to operate pending its restructuring.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. Demonstrators must obtain permits, which generally were granted.

The Constitution provides for freedom of association, but at times the Government restricted this right. The Government has outlawed the principal militant groups. Other groups associated freely, and a good governance oversight group, the Civil Society Network, which emerged in 2001, continued to raise issues of concern with the Government (see Section 4).

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

The public school curriculum included 30 minutes daily of religious instruction, the content of which was agreed upon by the Christian churches; students whose parents did not wish them to attend the class were excused. However, the Government did not subsidize church schools that did not align their curriculums with governmental criteria. Although theoretically non-Christian religions can be taught in the schools, there was no such instruction in practice.

During the year, Guadalcanal militants abducted a number of members of an Anglican religious order, and killed seven of them. In May, an Australian Seventh Day Adventist missionary was killed in Malaita; police arrested one of two suspects in the case (see Section 1.a.). However, there was no evidence that these killings were related to the victims' religious affiliation.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Government placed no restrictions on the movement of citizens within or out of the country. However, the militants demanded that the people indigenous to each island be given authority to determine who might or might not enter their island. Native-born citizens may not be deprived of citizenship on any grounds.

During the year, non-Guadalcanalese, especially Malaitans, were effectively barred from entering Guadalcanal Province for fear of being attacked, while many non-Malaitans, especially Guadalcanalese, were afraid to enter Honiara.

Since the violent phase of the conflict on Guadalcanal began, an estimated 30,000 Malaitans, Guadalcanalese, Western Province persons, and others living on Guadalcanal have been displaced from their homes as a result of armed conflict and intimidation. In December, over 200 displaced Guadalcanalese returned to their villages on Guadalcanal's Weathercoast from Honiara; RAMSI deployed troops to the area to maintain security. The Government provided very limited help to internally displaced persons, who generally relied on their extended families and subsistence farming for survival. The national Red Cross Society, funded by the European Union, provided some assistance.

Although a party to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, the Government has not enacted domestic legislation or procedures for making formal refugee determinations. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and the Red Cross in assisting refugees and has not returned 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 for persons 18 years of age and over. The Government is a modified parliamentary system consisting of a single-chamber Legislative Assembly of 50 members. Executive authority is vested in the Prime Minister and his Cabinet. Since independence in 1978, there have been six parliamentary elections, the latest in December 2001, and several elections for provincial and local councils. The 2001 national parliamentary elections were regarded as generally free and fair, although there was evidence of vote buying and coercion with weapons in a number of constituencies. On several occasions since independence, changes of government resulted from either parliamentary votes of no confidence or the resignation of the Prime Minister.

Successive governments were unable effectively to address the ongoing violence that began in 1998 between the Malaitan and Guadalcanalese ethnic groups (see Section 5), despite the October 2000 peace agreement that formally ended the conflict and mandated the surrender of weapons. In August, RAMSI instituted a new weapons amnesty; as of year's end, approximately 3,700 firearms, believed to be a majority of those illegally in circulation, had been removed from circulation and destroyed. RAMSI also implemented reform of the police force (see Section 1.d.) and provided assistance to the Finance Ministry for budget stabilization and to the justice sector for improving the effectiveness of the legal system. The aid included both funding of improvements and provision of civilian expertise, with approximately 50 personnel placed in key government agencies.

Traditional male dominance has limited the role of women in government. There were no women in the Parliament. During the year, two women were appointed as permanent secretaries in the Government.

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

There are no restrictions on the formation of local organizations to monitor and report on human rights. The Solomon Islands Development Trust has both development and human rights objectives. The ICRC periodically visited the country from its regional office in Suva, Fiji; after RAMSI's arrival, the ICRC re-established a permanent presence in Honiara. The Government generally cooperated with human rights organizations and requested assistance from the U.N. High Commissioner for Human Rights in formulating policies to restore peace and justice.

Numerous domestic NGOs operated freely; most were engaged in developmental or religious activity. In 2001, a number of NGOs and individual citizens established an umbrella organization, the Civil Society Network, to provide oversight of government activity. It regularly criticized practices such as remission of taxes and custom duties for associates of high-ranking government officials. The Government did not interfere in its operations.

The Constitution provides for an ombudsman, with the power to subpoena and to investigate complaints of official abuse, mistreatment, or unfair treatment. While the Ombudsman's Office has potentially far-ranging powers, it was limited by a shortage of resources. It organized occasional workshops and undertook a few tours during the year.

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

The Constitution provides that no person—regardless of race, place of origin, political opinion, color, creed, or disability—shall be treated in a discriminatory manner with respect to access to public places. The Constitution further prohibits any laws that would have discriminatory effects and provides that no person should be treated in a discriminatory manner by anyone acting in an official capacity. Despite constitutional and legal protections, women remained the victims of discrimination in this tradition-based society. Unemployment was high, and there were limited job opportunities for persons with disabilities.

Women.—Statistics were unavailable, but incidents of domestic violence appeared to be common. The law does not address domestic violence; however, there are provisions against common assault and rape. The Government took no action during the year to address domestic abuse. In the rare cases that were reported, charges often were dropped by the victims before the court appearance or the case was settled out of court. The magistrates' courts dealt with physical abuse of women as with any other assault, although prosecutions were rare. In part due to the breakdown in law and order and the lack of an effectively functioning police force after June 2000, women and teenage girls in particular were vulnerable to abuse, including rape, and many rapes have been reported since the ethnic conflict began in 1998. Following RAMSI's arrival, rape charges were brought against a number of persons and additional persons were under investigation at year's end.

The law accords women equal legal rights. However, in this traditional society, men are dominant and women are limited to customary family roles. This situation has prevented women from taking more active roles in economic and political life. A shortage of jobs also inhibited the entry of women into the work force. The majority of women are illiterate; this was attributed in large part to cultural barriers. The National Council of Women and other NGOs attempted to make women more aware of their legal rights through seminars, workshops, and other activities. The Government's Women Development Division also addressed women's issues.

Prostitution is illegal, but the statutes were not enforced. Although there is no law against sex tourism, none has been reported. Sexual harassment is not prohibited by law and was a problem.

Children.—Within the limits of its resources, the Government was committed to the welfare and protection of children. There was no compulsory education, and, according to some estimates, less than 60 percent of school-age children had access to primary education; the percentages of those attending secondary and tertiary institutions were much smaller. Few children proceeded beyond primary school, and a higher percentage of boys than girls attended school. School fees required of all students were very high relative to local incomes. Since 1999, the already poor state of education has worsened. Infrastructure has deteriorated and financial resources have almost disappeared; the Government has not paid teachers regularly. Some schools have ceased to function, although RAMSI expressed a commitment to restore such basic government services.

The Constitution grants children the same general rights and protections as adults. Existing laws are designed to protect children from sexual abuse, child labor, and neglect. Children generally were respected and protected within the traditional extended family system, in accordance with a family's financial resources and access to services, although some cases of child abuse were reported. As a result, virtually no children were homeless or abandoned. All medical care for children was free; however, the lack of resources seriously reduced the quality and availability of medical care.

In 2000, AI reported that Guadalcanalese militants included a number of child soldiers. U.N. human rights officials confirmed the use of child soldiers by both Guadalcanalese and Malaitan militants. Several hundred children (generally boys) under the age of 18 were active combatants or assisted in militants' camps. With the decrease in fighting, dozens of these underage militants remained in quasi-criminal gangs affiliated with their former militant commanders.

Persons with Disabilities.—There is no law or national policy on persons with disabilities, and no legislation mandates access to buildings for such individuals. Their protection and care are left to the traditional extended family and nongovernmental organizations. With high unemployment countrywide and few jobs available in the formal sector, most persons with disabilities, particularly those in rural areas, did not find work outside of the family structure.

The country had one educational facility for disabled children, which was supported almost entirely by the Red Cross. Persons with mental disabilities were cared for within the family structure; there were no government facilities for such persons.

National/Racial/Ethnic Minorities.—The country is composed of over 27 islands with approximately 70 language groups. In the precolonial era, these groups existed in a state of continual warfare with one another, and even today many islanders see themselves first as members of a clan, next as inhabitants of their natal island, and only third as citizens of their nation. Over the past century, and particularly since World War II, many persons from the poor, heavily populated island of Malaita settled on Guadalcanal, the island on which the capital of Honiara is located. The tensions and resentment between the Guadalcanalese and the Malaitans on Guadalcanal culminated in violence beginning in 1998 (see Sections 1.a., 1.b., 1.c., 1.g., and 2.d.), when Guadalcanalese militants began a campaign of threats and intimidation against Malaitans on Guadalcanal. Scores of Malaitans have been killed or injured by Guadalcanalese militants. Since 1998, approximately 30,000 persons, mainly Malaitans, have fled their homes as a result of the conflict. Civilians were the victims of abuses by both sides; such abuses reportedly included abductions, torture, rape, forced resettlement, looting, and the burning of homes. Although a peace agreement was concluded in 2000, tension and violence between Malaitans and Guadalcanalese continued. Violence between rival militant groups also was a problem during the year.

The level of ethnic conflict declined after the arrival of the RAMSI force in July (see Sections 1.a. and 1.c.).

Section 6. Worker Rights

a. The Right of Association.—The Constitution implicitly recognizes the right of workers to form or join unions, to choose their own representatives, to determine and pursue their own views and policies, and to engage in political activities. The courts have confirmed these rights. Only about 10 to 15 percent of the population participated in the formal sector of the economy. Approximately 60 to 70 percent of wage earners were organized (approximately 90 percent of employees in the public sector and 50 percent of those in the private sector).

Unions are free to affiliate internationally, and the largest trade union, the Solomon Islands' National Union of Workers, is affiliated with the World Federation of Trade Unions, the South Pacific Oceanic Council of Trade Unions, and the Commonwealth Trade Union Congress.

b. The Right to Organize and Bargain Collectively.—The law provides for the rights to organize and to bargain collectively, and unions exercised these rights frequently. Wages and conditions of employment are determined by collective bargaining. If a dispute between labor and management cannot be settled between the two sides, it is referred to the Trade Disputes Panel (TDP) for arbitration. The three-member TDP, composed of a chairman appointed by the judiciary, a labor representative, and a business representative, is independent and neutral.

The law permits strikes. During the year, government employees conducted numerous strikes over the Government's failure to pay salaries on time and the payment of preferential "danger" allowances that excluded certain groups of government employees. Schools, medical facilities, and airports were among the institutions that suffered significant strikes. There were no significant private sector strikes. Private sector disputes usually were referred quickly to the TDP for arbitration, either before or during a strike. In practice, the small percentage of the work force in formal employment meant that employers had ample replacement workers if disputes were not resolved quickly. However, employees are protected from arbitrary dismissal or lockout while the TDP is deliberating.

The law protects workers against anti-union activity, and there were no areas where union activity was officially discouraged.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits forced or bonded labor, including by children, and, normally, except as part of a court sentence or order, there were no reports that such practices occurred.

However, there were reports of child soldiers with militant groups (see Section 5).

d. Status of Child Labor Practices and Minimum Age for Employment.—The law forbids labor by children under the age of 12, except light agricultural or domestic work performed in the company of parents. Children under age 15 are barred from work in industry or on ships; those under age 18 may not work underground or in mines. The Labor Division of the Ministry of Commerce, Trade, and Industry is responsible for enforcing child labor laws. Given low wages and high unemployment, there was little incentive to employ child labor.

The Government has not ratified International Labor Organization Convention 182 on the worst forms of child labor. It does not have a comprehensive policy for the elimination of such abuses; there are no regulations defining the worst forms of child labor.

e. Acceptable Conditions of Work.—The minimum wage rate is \$0.30 per hour (1.50 Solomon Islands dollars) for all workers except those in the fishing and agricultural sectors, who receive \$0.25 (1.25 Solomon Islands dollars). The legal minimum wage did not provide a decent standard of living for an urban family living entirely on the cash economy. However, most families were not dependent solely on wages for their livelihoods.

The law regulates premium pay, sick leave, the right to paid vacations, and other conditions of service. The standard workweek is 45 hours and is limited to 6 days per week. There are provisions for premium pay for overtime and holiday work and for maternity leave.

Both an active labor movement and an independent judiciary provided enforcement of labor laws in major state and private enterprises. The Commissioner of Labor, the Public Prosecutor, and the police are responsible for enforcing labor laws; however, they usually reacted to complaints rather than routinely monitoring adherence to the law. Their efforts were severely restricted by the conflict and ensuing political instability. The extent to which the law was enforced in smaller establishments and in the subsistence sector was unclear. Safety and health laws appeared to be adequate. The Safety at Work Act requires employers to provide a safe working environment and forbids retribution against an employee who seeks protection under labor regulations or removes himself from a hazardous job site.

f. Trafficking in Persons.—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

THAILAND

Thailand is a democratically governed constitutional monarchy. Since 1992, there have been five national multiparty elections, which transferred power to successive governments through peaceful, democratic processes. The King exerts strong informal influence but never has used his constitutionally mandated power to veto legis-

lation or to dissolve the elected bicameral Parliament. In 2001, a coalition Government, led by Prime Minister Thaksin Shinawatra's Thai Rak Thai Party, was formed following the January general elections. The election process was viewed as generally free and fair; however, it was marred by widespread vote buying, and the killing of some political canvassers during the campaign. The judiciary was independent, but was subject to corruption.

The civilian authorities maintained effective control of the security forces. The national police were under the direct authority of the Police Commissioner, who reports to the Prime Minister. The military forces were under the jurisdiction of the Ministry of Defense. With the exception of specific, limited military authority along the country's borders, the police have responsibility for internal security. Elements of both the armed forces and the police had a reputation for corruption. Some members of the security forces committed serious human rights abuses.

The economy was market-oriented with a strong tradition of private enterprise, although state enterprises played a significant role in some sectors. The country has a population of approximately 63 million. Gross domestic product (GDP) growth was estimated to be approximately 6 percent for the year. Annual per capita income was approximately \$2,005. According to the National Statistical Office, approximately 41 percent of all employed workers were employed in the agricultural sector, although agriculture only accounted for approximately 9 percent of the GDP. Although government regulation generally provided protection for individual economic interests, including property rights, there was a lack of transparency in bureaucratic decision-making and some areas of Government remained vulnerable to corruption.

The Government's human rights record worsened with regard to extrajudicial killings and arbitrary arrests. There was a significant increase in killings of criminal suspects. According to press reports, more than 2,000 alleged drug suspects were killed during confrontations with police during a 3-month "War on Drugs" from February to April, while the Government reported that out of a total of 2,598 homicide cases during this three-month period, there were 1,386 narcotics-related deaths. Police occasionally beat suspects to coerce confessions. The Government failed to investigate and prosecute vigorously those who committed such abuses, contributing to a climate of impunity. Although the Government emphasized anti-corruption policies, a culture of corruption persisted in many parts of the civilian bureaucracy and in some units of the security forces. Routine demands for bribes undermined the rule of law and permitted the continuation of various illegal activities including trafficking in persons, sexual exploitation, and prostitution. Conditions in prisons and some provincial immigration detention facilities remained poor. Prolonged pretrial detention, including of aliens, remained a problem. The judiciary suffered from frequent instances of corruption and at times security forces infringed on citizens' privacy rights. The media practiced some self-censorship. There were some restrictions on freedom of movement. The Government hindered the activity of some human rights groups. The 1997 Constitution increased legal protections for women and persons with disabilities; however, some inequities in the law remained, and some protections were not enforced. Violence and societal discrimination against women were problems. Societal discrimination against hill tribes and religious and ethnic minorities continued. There were reports of forced labor and child labor. Trafficking in women and children, coerced prostitution and labor were serious problems.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no confirmed reports of politically motivated killings by the Government or its agents; however, elements of the Royal Thai Police continued to use excessive, lethal force against criminal suspects and committed or were connected to numerous extrajudicial, arbitrary and unlawful killings. For example, according to the Interior Ministry, as of February 27, 993 persons had been killed during confrontations with police in the first 2 months of the year. However, NGOs alleged that these government figures underestimated the true number of persons killed while being apprehended by police.

On February 1, the Prime Minister initiated a 3-month "War on drugs" campaign intended to eliminate narcotics from the country. The Minister of Interior instructed local authorities to update "blacklists" of individuals suspected of being involved in illegal drug trafficking, sale, or use and the Prime Minister told the governors and provincial police that those who failed to eliminate a prescribed percentage of the names from their "blacklists," would be fired. The Government threatened retaliation against local officials who did not produce results. There were reports that local officials used the blacklists as a means to settle political differences. According to official figures, there were 1,386 narcotics-related deaths between February 1 and

April 30. No arrests were made in 1,195 of these cases, which led many observers to believe police were responsible for most of these deaths. According to press reports, more than 2,200 alleged drug criminals were killed during the year, while more than 90,000 suspects were arrested.

Human rights activists accused the Government of unleashing a “shoot to kill” policy and condoning the killings of suspected drug dealers. The Government in turn claimed that many of the killings resulted from dealers fighting each other. Many of those killed were civilians. For example, in February, police shot and killed a 9-year-old boy in the back seat of a car driven by his mother following the arrest of his father on drug trafficking charges. The three police involved in the shooting were arrested for intentional murder; however, the court ruled that the killing was accidental and justified. In response to criticism from national and international NGOs and other foreign governments, the Government created several official committees to investigate the killings; by year’s end, security force involvement had been acknowledged in 55 deaths during the February to April period. Of these, 39 were forwarded to prosecutors for submission to the courts, and the other 16 remained under investigation. The U.N. High Commissioner for Human Rights (UNHCR) requested that a special envoy visit the country; however, the Government refused the visit.

In August, several separatists were reportedly killed by police in the country’s southern provinces. In the past, when the Government investigated extrajudicial killings, it prosecuted few of the accused police or military officers. Senior prosecutors and NGO legal associations claimed that most cases against police or military officers accused of extrajudicial killings eventually were dismissed because regulations outlined in the Criminal Code requires public prosecutors to rely exclusively upon the recommendations of the police when determining whether to bring a case for criminal prosecution. The resulting routine exoneration of police officers contributed to a climate of impunity that persisted in preventing any major change in police behavior. It also discouraged relatives of victims from pressing for prosecution. Procedures for investigating suspicious deaths, including deaths occurring in police custody, required among other things, that the prosecutor, a forensic pathologist, and a local administrator participate in the investigation and that family members have legal representation at the inquests. However, these procedures often were not followed. Families rarely took advantage of a provision in the law that allows them to bring personal lawsuits against police officers for criminal action during arrest. There was no information available to determine how many cases were settled out of court. However, in cases in which suits were filed, the official charged often compensated the family of the deceased, and the lawsuit was waived. Compensation varied widely, from as low as \$3,490 (150,000 baht) to \$69,770 (3 million baht).

There were no developments in the 2002 killings in Chiang Rai, where police officers killed several civilians who were suspected of drug trafficking.

According to the Ministry of Interior’s Investigation and Legal Affairs Bureau, during the first 6 months of the year, 1,197 persons died in police custody (see Section 1.c.). Most of these deaths were attributed by the authorities to natural illness. During the year, detainees at the Muang Suratthani Police Station died in custody. The National Human Rights Commission investigated these cases and concluded that the detainees died as a result of injuries sustained when police beat them. However, according to the Law Society of Thailand, no action was taken against police officers in these cases. Instead, the victim’s cellmates were pending trial for the murder at year’s end. In January, an official from Muang Kanchanaburi Police Station was suspended from duty pending investigation for beating a detainee to death. At year’s end, an investigation into the case continued.

Investigations of 25 killings of political canvassers during the election campaigns leading up to the 2001 general election and the 2000 Senate elections remained open and unresolved at year’s end.

In 2002, at least 36 persons were killed by landmines in border areas. During the year, a civilian demining unit continued to survey and remove landmines from border areas.

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

The Government made little progress in its investigation of the 1991 disappearance of Labor Congress of Thailand President Thanong Po-an, and his whereabouts remained unknown at year’s end.

There were no developments in the disappearances of numerous persons following the February 2000 border clashes or in the disappearances of 38 missing protesters in May 2000.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution and the Criminal Code prohibit such practices; however, NGOs

and legal organizations continued to report that some members of the police occasionally beat suspects to coerce confessions. During the year, there were newspaper reports of numerous cases in which citizens accused police of brutality, threatening false charges, and extorting bribes. Investigations were undertaken in most of the cases, including several in which the accused police officers were suspended pending the result of the internal investigation.

On May 14, local officials allegedly beat and killed six Burmese laborers in Mae Sot. Following a police investigation, six local officials were arrested. They were released on bail during court proceedings. Their trial was ongoing at year's end (see Section 6.c.).

In September 2002, a female detainee at a Bangkok police station accused a police officer of raping her in custody. The officer was suspended from duty and detained without bail; the incident was investigated and forwarded to the public prosecutor where it remained under review. Reportedly, the victim and offender were negotiating an out-of-court settlement. In August 2002, the May 2001 case that accused a police officer of rape was decided. The Provincial Court sentenced the offender to 12 years imprisonment. The offender subsequently filed an appeal, but remained in prison at year's end.

There were no developments in the trial of three soldiers responsible for the 2002 alleged rape of two female refugees from Burma.

Corruption remained widespread among police officers. Police officials complained that low pay for members of the police force made them susceptible to bribes.

There were no reports of action taken against persons responsible for a train bombing committed in July 2002. At year's end, a court trial continued for the 36-year old Karen man accused in the June 2002 bus attack in Ratchaburi Province.

Prison conditions were poor and severely overcrowded but in general did not pose a serious threat to the life or health of inmates. The total prison population of approximately 212,620 inmates was housed in 182 prisons and detention centers, with a total design capacity of 100,000 prisoners. Sleeping accommodations and access to medical care remained areas of concern. Medical care in prisons was inadequate. The Corrections Department employed 7 full-time doctors and 7 full-time dentists. There were 6 part-time doctors and 107 full-time nurses supplemented the permanent medical staff. Prison authorities sometimes used solitary confinement to punish difficult prisoners. They also used heavy leg irons as a means of controlling and punishing prisoners. Unlike in previous years, there were no reports that prisoners captured in escape attempts were beaten severely.

Male and female prisoners in official detention centers and prisons were segregated. Juveniles were held separately in 34 of the 76 provinces, but they were tried in the same courts as adults (see Section 5). Men, women, and children often were held together in police station holding cells pending indictment.

Conditions in Bangkok's Suan Phlu Immigration Detention Center (IDC) improved during the year; however, conditions in nine provincial detention centers remained poor. Immigration detention facilities were administered by the Immigration Police Bureau, reporting to the Prime Minister's Office, and were not subject to many of the regulations that governed the regular prison system. There were credible reports of physical abuse of detainees by guards in some detention centers. Overcrowding remained a serious problem.

Access to prisons was not restricted, and the Government permitted visits by independent human rights observers and the International Committee of the Red Cross (ICRC).

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily. Under the Constitution, persons must be informed of likely charges against them immediately after arrest and must be allowed to inform someone of their arrest. Detainees have a right to have a lawyer present during questioning, and the police generally respected this right in practice. Foreign prisoners sometimes were pressured to sign confessions without the benefit of a competent translator.

Corruption was a serious problem. Although the Government emphasized anti-corruption policies during the year, a culture of corruption persisted in many parts of the civilian bureaucracy and in some units of the security forces. There were reports that police tortured, beat, and otherwise abused detainees and prisoners, generally with impunity. However, the Government prosecuted a few offenders. During the year, the Royal Police reported an investigation of several hundred public complaints of various types leading in a significant number of cases to disciplinary action ranging from reprimands to dismissal but few resulted in arrests.

Some police officers were involved in prostitution and trafficking in women and children (see Sections 5 and 6.f.). In July, more than 50 police officers from Bangkok

Metropolitan police station were removed from active duty after allegations surfaced that police were accepting bribes and free prostitution services.

During the year, the Government enacted anti-terrorist legislation. Punishments for terrorist crimes ranged from fines to the death penalty; however, the Supreme Court's decision on whether the legislation was constitutional was pending at year's end.

Police are required to submit criminal cases to prosecutors for the filing of court charges within 48 hours of arrest; however, the law also allows an extension period of up to 3 days. Police also may seek court permission to hold suspects for additional periods (up to a maximum of 82 days for the most serious offenses) to conduct investigations. In addition, laws and regulations place any offense for which the maximum penalty is less than 3 years under the jurisdiction of the district courts, which have different procedures. In these cases, police are required to submit cases to public prosecutors within 72 hours of arrest. Lawyers reported that the police rarely brought their cases to court within the 48-hour period. There is a functioning bail system. On June 27, police raided a garment factory in Bangkok and detained 11 Burmese activists. The Burmese activists remained in a detention center on charges of immigration violation. By year's end, these activists received UNHCR persons of concern status and have been submitted to third countries for possible refugee resettlement (see Section 2.d.). As in previous years, several Burmese activists were arrested and generally held on immigration violation charges.

Approximately 12 percent of the total prison population were pretrial detainees. Pretrial detainees usually were not segregated from the general prison population. Pretrial detention of criminal suspects for up to 60 days was common. Some foreigners from countries without diplomatic representatives in the country faced trial delays of many months (see Section 1.c.).

Some corrupt police and soldiers were involved in prostitution and trafficking in women and children (see Sections 5 and 6.f.).

The Constitution prohibits forced exile and the Government did not use forced exile.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, while the judiciary generally was regarded as independent, it was subject to corruption and influence.

The civilian judicial system has three levels of courts, as well as an independent Constitutional Court: Courts of first instance; courts of appeal; and the Supreme Court. A separate military court hears criminal and civil cases pertaining to military personnel as well as those brought during periods of martial law (last imposed in 1992). The Constitutional Court, charged with interpreting the Constitution, began operating in 1998. In August 2000, the courts became fully independent of the Ministry of Justice and responsible for their own administration and budget. Islamic (Shari'a) courts hear only civil cases concerning members of the Muslim minority. Access to courts or administrative bodies to seek redress is provided for and respected.

There is no trial by jury. A single judge decides trials for misdemeanors, and two or more judges are required for more serious cases. Trials often required years to complete because they ran sporadically, typically convening for a single day every few months. While most trials were public, the court may order a closed trial, particularly in cases involving national security, the Royal Family, children, or sexual abuse. Justices nominated to both the Constitutional Court and the Supreme Administrative Court must be confirmed by the Senate; judges at all other levels are career civil servants whose appointments are not subject to parliamentary review.

The Constitution provides for the presumption of innocence. Defendants tried in ordinary criminal courts enjoy a broad range of legal rights, including access to a lawyer of their choosing. A government program provided free legal advice to the poor, but indigent defendants were not provided with counsel at public expense automatically. The court was required to appoint an attorney in cases where the defendant was a minor and in cases where possible punishment was imprisonment. Most free legal aid came from private groups, including the Law Society of Thailand and the Thai Women Lawyers Association.

On September 25, the Civil Court ruled that the Royal Thai Police and homicide investigator pay a combined total of US \$450,000 (18 million baht) to two persons wrongfully convicted for the 1986 murder of a Thai-American woman. The Court found that the police and investigator had colluded to frame innocent persons.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—With limited exceptions, the Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. With a few exceptions, including

crimes in progress, the Constitution requires police to obtain a warrant from a court prior to conducting a search. In 2002, the Criminal Procedure Code was amended to standardize procedures for issuing warrants.

NGOs concerned with the welfare of ethnic highlander tribes reported that police and military units carried out several warrantless searches of villages for narcotics in northern provinces during the year. Such operations are permitted under both the Constitution and the Narcotics Prevention and Suppression Act of 1976 in cases in which there is reasonable suspicion and an urgent search is deemed necessary. However, some academic groups claimed that the searches were arbitrary and violated the villagers' civil rights.

No known action was taken against those responsible for the July 2002 harassment of an activist working to promote citizenship for hill tribe people.

Security services monitored persons, including foreign visitors, who espoused extremist or highly controversial views.

Section 2. Respect For Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, incidents of harassment and intimidation of journalists continued to occur. Unlike in the previous year, there were no reports that government authorities expelled foreign journalists. The Government may restrict freedom of speech and freedom of the press to preserve national security, to maintain public order, to preserve the rights of others, to protect public morals, to prohibit criticism of the royal family, or to prevent insults to Buddhism.

The Constitution makes it unlawful for the Government to censor, ban, license, or restrict print or broadcast media, except by specific legislation in times of crisis. While newspapers and periodicals practiced some self-censorship, especially with regard to the monarchy and issues involving national security, media criticism of political parties, public figures, and the Government was common and vigorous.

Journalists generally were free to comment on governmental activities without fear of official reprisal, although there were attempts by the Government to curb journalists or publications perceived to be critical of government officials or their families.

During the year, there was one reported case of violence against a member of the press. In February, Surapong Ritthi, a reporter for the national newspaper Thai Rath, was killed by an unidentified gunman, allegedly in retribution for his reporting on illicit activities at a nightclub. No known official action had been taken in the case by year's end. The trial of four noncommissioned army officers arrested in connection with the April 2000 nonfatal shooting of the Editor in Chief of the Chiang Mai daily newspaper was ongoing at year's end.

Unlike in previous years, there were no reports that government agents revoked the visas of foreign journalists or confiscated newspapers or magazines.

During the year, the Police Special Branch did not issue any official warnings to publications for violations of the 1941 Printing and Advertisement Act such as disturbing the peace, interfering with public safety, and offending public morals. However, the Police Special Branch sent approximately 10 "letters of cooperation," asking the media to be cautious when reporting sensitive political or social issues. Although these "letters of cooperation" had no legal enforcement capacity, they may have inspired self-censorship.

The Printing and Advertisement Act permits police closure of newspapers or printing presses in times of war or national emergency, but only with a court order. No such closures occurred during the year. The Juridical Council approved the revocation of the act, but final revocation awaits approval by the Council of State.

The law allows police to restrict or to confiscate printed publications and other materials deemed obscene; the interpretation generally was limited to hardcore pornographic material.

Domestic publications continued to present a wide range of political and social commentary. Unless critical of the Royal Family or the Monarchy, foreign and domestic books normally were not censored and circulated freely. Police had the authority to ban the importation of publications but generally did not exercise it.

Radio and television stations enjoy the same constitutional protections of freedom of expression and freedom of speech as the print media. The Government licenses all radio and television stations, and most are operated under the direct or indirect oversight of the Government or the armed forces. Radio and television station profits are retained by organizations that control frequencies, such as government ministries, universities, and the military services.

Ownership of media outlets by governmental and quasi-governmental entities undermined freedom of press provisions several times during the year. In March, the

Independent News Network (INN) radio broadcast was temporarily canceled after the network aired the Deputy Prime Minister's criticisms of the administration. In response to public protests, the Government restored the broadcast and claimed that INN's failure to renew their broadcast license was the reason for the temporary closure.

For example, one cable television channel that was owned by the Nation Multimedia Group and operated exclusively on cable television network and was marginalized. Opposition parties were unable to gain access to state-owned television; however, some opposition party statements and positions were reported on the news programs of state-owned television, particularly when voiced by members of Parliament.

The 1997 Constitution contains reform provisions calling for fewer restrictions on broadcast media and the establishment of an independent National Broadcasting Commission (NBC) to oversee frequency management. The seven Commission members were expected to be selected from four broad categories: the Government, broadcasting, NGOs, and universities. However, the actual selection did not meet these goals, and a lawsuit was filed in the Administrative Court. In March, the Supreme Court ruled in favor of the plaintiff and ordered the rejection of all National Broadcast Commission (NBC)-proposed candidates. On appeal in March the Supreme Court nullified the NBC candidates. No other candidates had been chosen by year's end. The NBC was to be authorized to redistribute frequencies previously controlled by the Government to eligible organizations or individuals in the country. The media criticized the proposed implementation regulations, arguing that they contained broad censorship powers and allowed the Government to retain a large number of its frequencies.

Repeated delays in the implementation of broadcast media reforms contained in the 1997 Constitution resulted in attempts by some community radio broadcasters to establish their own small studios and transmitters. Because current broadcast regulations restrict radio frequencies to government entities, these independent community radio stations technically were illegal. At year's end, 140 independent community radio broadcast stations remained in operation. A state community radio policy was created during the year to resolve conflicts and frequency disputes. The community radio policy also allowed for the stations to continue "illegal" operations until the present laws and regulations were amended. Pending the establishment of the NBC, the Thai Broadcast Journalists and the Thai Media Association created the Thai Broadcast Federation. The Federation was not granted the authority to assign frequencies reserved for the National Broadcast Commission.

The military services retained 265 radio and television frequencies ostensibly for national security purposes, despite assurances by the civil authorities that the military services may use all broadcasting frequencies in the event of a national emergency without the need to own them.

Radio stations must renew their licenses every year, and their signals were broadcast via government transmitters. They are required by law to broadcast government-produced newscasts twice daily, 30 minutes each in the morning and evening.

There was one independent, noncable television station, Independent Television (ITV); its managing shareholder was Shin Corporation, which was owned by the Prime Minister's family. ITV's Programmers generally were free to determine the nature and content of broadcasts. Stations occasionally censored or "blacked out" portions of programming that they deemed politically sensitive or pornographic. Such self-censorship was more common at state-controlled stations.

A censorship board existed as part of the office of the Prime Minister; however, it rarely formally restricted television or radio broadcasts. It advised broadcasters either verbally or by letter of specific programs deemed inappropriate or offensive, and advised the programmer to be more careful in the future. In February, the international wire service, Agence France-Press, reported receiving a letter from the Government after publishing an article critical of the Prime Minister.

Under the 1930 Film Act, theater owners and broadcasters must submit films that they plan to show to the film censorship board for review. The board is composed of officials representing the Ministry of Education, the Ministry of University Affairs, the military, the Department of Religious Affairs, and the Ministry of Foreign Affairs. The board may ban films if its requirements that portions of the film be removed are not met. Reasons for censoring films include violating moral and cultural norms and disturbing the public order and national security. Theater owners and broadcasters frequently censor films themselves before submitting them to the board. According to the office of the Film Censorship Board, of the 230 films submitted for review in 2002, 1 was banned.

Activity on the Internet remained unregulated. There have been no reports of the Government censoring or blocking Internet websites that it deemed undesirable. As

of the end of the year, according to the National Electronics and Computer Technology Center, an estimated 6 million persons used the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of peaceful assembly, and the Government generally respected this right in practice. Permits are not required for private meetings or gatherings unless held on public property or organized by foreign nationals; these are granted routinely.

There were no reports that security forces forcibly disrupted demonstrations during the year. However, prior to the October APEC meetings in Bangkok, the Government threatened to withhold future government funding from NGOs and other groups that protested during the meetings. The Government denied entry visas to some members of Falun Gong as well as non-Thai individuals and organizations known for anti-globalization views. However, during the APEC meetings, a number of peaceful demonstrations took place in Bangkok at a distance from the meeting sites. Police forcibly dispersed several demonstrations during 2002. For example, in December 2002, dozens of protesters and police officers were injured during a protest in Hat Yai against building the Thai-Malaysia pipeline. The National Human Rights Commission opened an inquiry panel and released a report that found the Government had used excessive force to disperse the demonstrators. No further action reportedly was taken against members of the security forces who forcibly dispersed demonstrations in 2002 and 2001.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Private associations must register with the Government; such registration was approved routinely.

c. Freedom of Religion.—The law provides for freedom of religion, and the Government generally respected this right in practice; however, it restricted the activities of some groups. The Constitution requires that the monarch be a Buddhist. The state religion is in effect Theravada Buddhism; however, it is not designated as such.

The Government played an active role in religious affairs. The Religious Affairs Department (RAD), which is located in the Ministry of Education, registered religious organizations. To register a religious organization first was required to be accepted into an officially recognized ecclesiastical group. There were seven such groups, including one each for Buddhists, Muslims, and Catholics, and four for Protestant denominations. Government registration conferred some benefits, including access to state subsidies, tax-exempt status, and preferential allocation of resident visas for organization officials. Although some activities of groups that were not accepted into one of the existing recognized groups were restricted, in general, unregistered religious organizations operated freely. There were no reports of the extortion of unregistered groups by local officials during the year.

Under the provisions of the Religious Organizations Act, a new religion was recognized if a national census shows that it has at least 5,000 adherents, a uniquely recognizable theology, and is not active politically. However, since 1984, the Government has maintained a policy of not recognizing any new religious faiths. This restricted the activities of some groups that were not accepted into one of the existing religious governing bodies on doctrinal or other grounds.

The Constitution requires the Government “to patronize and protect Buddhism and other religions.” The Government subsidized the activities of the two largest religious communities (Buddhist and Islamic). The total state budget for Buddhism education, ethics, and morality courses was \$21.2 million (850 million baht); the budget for Islamic ethics and morality courses was \$300,000 (12.9 million baht). These funds supported Buddhist and Muslim institutes of higher education, religious education programs in public and private schools, daily allowances for monks and Muslim clerics who held administrative and senior ecclesiastical posts, and subsidized travel and healthcare for monks and Muslim clerics. This figure also included an annual budget for the renovation and repair of Buddhist temples and Muslim mosques, the maintenance of historic Buddhist sites, and the daily upkeep of the Central Mosque in Pattani.

The Government provided funding to Christian organizations to support social welfare projects. Catholic and Protestant churches may request government support for renovation and repair work but did not receive a regular budget to maintain church buildings nor did they receive government assistance to support their clergy. The Government considered donations made to maintain Buddhist, Muslim, or Christian buildings to be tax-free income; contributions for these purposes were also tax-deductible for private donors.

Religious instruction was required in public schools at both the primary (grades 1 through 6) and secondary (grades 7 through 12) education levels. Instruction was limited to Buddhism and Islam.

The Government permitted foreign missionary groups to work freely throughout the country, although it also maintained policies that favored proselytizing by citizens. The number of foreign missionaries officially registered with the Government was limited to a quota that originally was established by the RAD in 1982. The quota was divided along both religious and denominational lines, but religious organizations reported that unregistered missionaries were able to proselytize during the year. Activities of Muslim professors and clerics were subjected disproportionately to scrutiny on national security grounds because of continued government concern about the resurgence of Muslim separatist activities in the south.

Muslims, who represented between 5 and 10 percent of the country's population nationwide and constituted the majority in four of the five southernmost provinces that border Malaysia, also experienced some economic discrimination. The Government continued to address the problem by maintaining longstanding policies designed to integrate Muslim communities into society through developmental efforts and expanded educational opportunities.

Muslim female civil servants were not permitted to wear headscarves when dressed in civil servant uniforms. Muslim female civil servants who were not required to wear uniforms were allowed to wear headscarves. In practice, most female civil servants were permitted by their supervisors to wear headscarves if they wished to do so, particularly in the country's southernmost provinces.

Women were not permitted to be ordained as monks. In addition, many religious schools only accepted males (see Section 5).

Laws prohibiting speech likely to insult Buddhism remained in place. The police have authority under the law to issue written warnings or orders suspending the publication or distribution of printed materials considered offensive to public morals; however, they did not use it to restrict the publication or distribution of religious literature during the year.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for the right of citizens to change their residence or workplace, and authorities generally respected this right in practice; however, there were some exceptions. Longstanding written restrictions on the travel and domicile of certain Vietnamese resident aliens who immigrated to the country in 1945 and 1946, and Chinese who immigrated between 1953 and 1961, remained in place. In addition, other longtime noncitizen residents, including hundreds of thousands of ethnic Shan and tens of thousands of other tribal members, officially are required to seek permission from local authorities or the army for foreign and domestic travel. Registered resident aliens moved freely within the country.

According to an unconfirmed international press report, the Government continued to monitor the movements of Tibetan and democracy activists, as well as members of the Falun Gong.

In August, the Government limited the sectors and provinces in which migrant workers may hold jobs. The Government deported hundreds of thousands of illegal migrant workers and families during the year. However, NGOs and the International Organization for Migration (IOM) reported that a large number of those deported later returned to the country (see Section 6.e.).

The Government did not extend displaced person status to the large number of members of the Shan ethnic minority who crossed the border fleeing the effects of forced relocation, other human rights violations, and sporadic fighting in Shan State, Burma. However, in May 2002, the Government granted temporary shelter to approximately 450 Shan who fled fighting in Burma across the border from Chiang Mai Province. In 2002, the Government announced plans to repatriate the group. The Government later delayed the repatriation following an appeal by NGOs. No effort was made by the Government to repatriate the group, and local civilian and military authorities said they would be allowed to stay as long as their home districts in Burma were unsafe to return to.

The law does not provide for the granting of asylum or refugee status to persons who meet the definition of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. During the year, the Government continued to provide temporary protection to a small number of Lao asylum seekers and many Burmese. The Government continued to allow the U.N. High Commissioner for Refugees (UNHCR) to monitor and provide protection to 140,000 Burmese refugees designated by the Gov-

ernment and the UNHCR as “persons of concern” living in nine camps along the frontier with Burma. However, the Government prohibited the UNHCR from maintaining a permanent presence in the border camps and officially registering new refugees.

Along the border with Burma, the Government generally followed its policy of providing temporary protection to new displaced arrivals. In 1999, provincial screening committees were established to determine eligibility to enter the refugee border camps based upon very narrow criteria, limited to those who flee actual fighting rather than on broader grounds of persecution on the basis of race, religion, ethnic group, social class, or political opinion. However, Ministry of Interior officials in the border provinces opted not to convene new boards during the year or in 2002, causing the unregistered population in the refugee camps to increase substantially.

In October, the Government informed the staff of a renowned health clinic on the Thai-Burma border that its staff did not qualify for work permits due to changes in available visa categories. Dr. Cynthia Maung and her 100-person staff had tended to the medical needs of Burmese refugees living in the country. At year’s end, the Government allowed the clinic to remain open without harassment or impediment. In 2002, the Maneeloy Burmese Center located in Ratchaburi Province and which housed Burmese “student” refugees, was closed and the residual population was transferred to the Tham Hin refugee camp located near the border with Burma. Tham Hin housed more than 9,300 persons from Burma, mostly Karen. Another section was created to receive the Maneeloy residual population.

The Government continued to allow NGOs to provide food, medical services, housing, and other services to Burmese refugees near the border. However, the Government did not allow NGOs to aid ethnic Shan refugees. Government officials periodically arrested Burmese outside designated camps as illegal aliens, including some recognized as “persons of concern” by the UNHCR. Those arrested generally were taken to the border and released, without being turned over to Burmese authorities.

The Government maintained a watchlist of persons who were not permitted entry into the country.

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

The Constitution provides for the right of citizens to choose or change their government peacefully through free and fair elections based on universal suffrage. The country is a democratically governed constitutional monarchy.

Since 1992 there have been five national multiparty elections, which transferred power to successive governments through peaceful, democratic processes. The King exerts strong informal influence but never has used his constitutionally mandated power to veto legislation or dissolve the elected bicameral Parliament. Voting is compulsory. Eligible voters who fail to exercise their voting responsibilities, except for those excused, are subject to the loss of certain rights, including the right to be a candidate in future elections. However, the Constitution prohibits Buddhist monks and nuns from seeking public office. Parliamentary elections were held in January 2001. The election process generally was viewed as free and fair; however, it was marred by widespread vote buying, a recurrent problem. Exercising its constitutional mandate to prevent election fraud, the Election Commission dismissed polling results and held a total of 5 rounds of revotes in 72 constituencies due to “election irregularities.” There also were 25 killings of political canvassers during the campaign leading up to the 2001 elections, at least some of which were motivated politically (see Section 1.a.). In February 2001, the coalition Government of Prime Minister Thaksin Shinawatra’s Thai Rak Thai Party was formed.

In 2000, the first directly elected Senate took office. The Senate election required multiple rounds of voting for some districts because the Election Commission voided some results due to irregularities such as evidence of vote buying. The Constitutional Court ruled that the Election Commission could disqualify a candidate who the Commission found guilty of electoral irregularities.

There are no laws limiting the participation of women or minorities in political life. There were 45 women among the 499 members of the House of Representatives, and 20 women in the 200 member Senate. There were 3 women in the 35 member Cabinet. Although half of civil service employees were women, only 15 percent held senior civil service positions. Few ethnic minorities hold positions of authority in national politics. Muslims from the south hold significant elected positions, although they continued to be underrepresented in appointed local and provincial government positions. There were 8 Muslim and 2 Christian Senators; 22 Muslim and 2 Christian Members of House of Representatives. Two Members of Parliament were hill tribesmen.

Noncitizen members of hill tribes were barred from participating in the political process (see Section 5).

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

A wide variety of domestic and international human rights organizations generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views. Several international organizations have a permanent presence in the country, including the ICRC and the U.N. However, NGOs that dealt with sensitive political issues, such as the Burmese democracy movement, faced increased harassment.

Very few NGOs were accorded tax-exempt status, and this sometimes hampered the ability of domestic human rights organizations to secure adequate funding.

Unlike in the previous year, there were no reports that security forces raided the offices of NGOs working to promote democracy in Burma.

The National Human Rights Commission (NHRC) was active during the year. It operated as a separate government entity to prepare an annual evaluation of the human rights situation for the National Assembly, to propose policies and recommendations for amending laws to the National Assembly, to promote measures to educate citizens on human rights, and to investigate human rights abuses. Although the NHRC received over 300 petitions during its first year in existence, modest staffing and resources, as well as the lack of power to prosecute or to punish violators, hampered its ability to carry out its mandate. The Prime Minister severely criticized one NHRC member for drawing international attention to apparent human rights violations stemming from his anti-narcotics campaign.

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

The spread of HIV/AIDS was estimated to have infected approximately 1.8 percent of the population. The Government took measures during the year to improve its support of persons living with HIV/AIDS. For example, the Government has provided funds to HIV/AIDS support groups, continued public debate at the highest levels of political leadership, sustained public education and media campaign to alter unsafe behavior; started effective pilot projects to help lead policy, and included of all segments of society in the fight against the transmission of the disease.

The Constitution provides for equal treatment under the law without respect to race, sex, religion, disability, language, or social status; however, in practice, some discrimination existed, and government enforcement of equal protection statutes was uneven.

Women.—Domestic violence against women was a significant problem; reliable reports indicated that domestic abuse occurred across all social classes. Specific laws concerning domestic violence have not been enacted. Police did not enforce laws against such violence vigorously, and domestic violence often went unreported, and the police often were reluctant to pursue reports of domestic violence. NGO-supported programs designed to aid victims included emergency hotlines, temporary shelters, counseling services, and a television program designed to increase awareness of domestic violence, HIV/AIDS, and other issues involving women. The Government's "one-stop" crisis centers, located in state-run hospitals, continued to care for abused women and children, but faced budget difficulties.

Rape is illegal. However, a husband may not be prosecuted for spousal rape. According to academics and women's rights activists, rapes and domestic assaults were underreported, in part because law enforcement agencies widely were perceived to be incapable of bringing perpetrators to justice. Police sought to change this perception and encouraged women to report sexual crimes through the use of teams of female police officers that operate in metropolitan Bangkok police stations and in three other provinces.

Prostitution is illegal but it flourished. Prostitution often was protected by local officials with a commercial interest in it (see Sections 1.c. and 6.f.). Trafficking in women and children for prostitution was a serious problem (see Section 6.f.). Government and NGO estimates of the number of women and children engaged in prostitution varied widely. Many NGOs and government departments reported a figure of 200,000 persons, which was considered conservative. The Commission on Women's Affairs estimated that in 2000, approximately 20 percent of prostitutes were children. There were reports that women were forced into prostitution in border areas, but the number of such cases was difficult to determine. The majority of prostitutes were not kept under physical constraint, but a large number worked under debt bondage (see Sections 6.f.). The Prostitution Prevention and Suppression Act makes child prostitution illegal and states that customers who patronize child pros-

titutes are subject to criminal sanctions. Parents who allow a child to enter the trade also are subject to criminal sanctions. There were three arrests and no prosecutions during the year for parents who allowed a child to enter the trade. NGOs and government agencies provided shelter, rehabilitation, and reintegration programs for children and women involved in the sex industry.

Sex tourism was a problem (see Section 6.f.).

The Labor Protection Act makes sexual harassment illegal, but covered only persons working in the formal private sector. NGOs claimed that the legal definition of harassment in the 1998 Labor Protection Act was vague and that such ambiguity made the prosecution of harassment claims difficult. No sexual harassment cases were prosecuted under the law during the year. However, in 2002, a female journalist accused a senior political figure of sexual harassment. The politician in turn filed a libel lawsuit against her newspaper. The case was pending at year's end. Extensive media coverage of the case suggested that public awareness of the issue was increasing.

The Constitution provides for the equality of all citizens; however, some inequalities in the law remained. For example, marriage and family laws discriminate against women. A man may sue for divorce on the grounds that his wife committed adultery, but a woman faces the additional legal burden of proving that her husband has acknowledged publicly another woman as his wife.

Women had equal access to higher education, and more than half of the year's university graduates were women. However, police and military academies (except for the nursing academy) did not accept female students, although a significant number of instructors at the military academies were women. Women constituted 48 percent of the labor force and held an increasing share of professional positions. Women also were able to own and manage businesses freely. Government regulations require employers to pay equal wages and benefits for equal work, regardless of gender. Nonetheless, discrimination in hiring was common, and there was a significant gap between the average salaries earned by men and women because women were concentrated in lower paying jobs. In practice, women also received lower pay for equal work in virtually all sectors of the economy. A 2001 Ministry of Labor survey revealed that on average, men earned 17 percent more than women.

The National Human Rights Commission Act specifies that at least one-third of the members of the NHRC be women; during the year, 5 of the 11 commissioners were women. The Women and Constitution Network, a league of 52 women's organizations, advocated legal reforms to address inequities in the treatment of women. It continued to play an important role in securing the inclusion of gender-equality clauses in legislation that created new government organizations mandated by the 1997 Constitution.

Children.—The Constitution provides children equal protection under the law. Education was compulsory and free through grade 9. In general, girls and boys attended primary and secondary schools in equal numbers. However, an estimated 96 percent of children completed grade 6, and 48 percent completed grade 12. The National Budget for Protection of Right of Individuals, Families, Groups, and Communities budget allocated \$3.7 billion (148 billion baht) for education during the year. Young girls were barred from religious schools, which were often the only form of education for impoverished children.

Although there were 52 Juvenile Observation and Protection Centers nationwide, children were tried in the same courts as adults and detained with adults in some regions of the country (see Section 1.e.).

The Criminal Code provides for the protection of children from abuse, and laws on rape and abandonment provide for harsher penalties if the victim is a child. During the year, police were reluctant to investigate abuse cases, and rules of evidence made prosecution of child abuse cases difficult. Legislation designed to protect witnesses, victims, and offenders under the age of 18 was in effect. The procedures allow children to testify on videotape in private surroundings in the presence of a psychologist, a psychiatrist, or another social worker with a judge's consent. Persons charged with pedophilia are charged under appropriate age of consent and prostitution laws. Victims' testimony is handled under the provisions of the Child Friendly Procedure Act.

Trafficking in children, including for commercial sexual exploitation, remained a serious problem (see Section 6.f.). Pedophilia, both by citizens and by foreign sex tourists, continued. The Government, university researchers, and NGOs estimated that there were as many as 30,000 to 40,000 prostitutes under 18 years of age not including foreign migrants. The Prostitution Prevention and Suppression Act of 1996 made child prostitution illegal and provided for criminal punishment for those who use child prostitutes. Parents who allow a child to enter the trade also are punishable. However, custom and tradition made it rare that children accused their par-

ents in court proceedings. Despite press reports detailing a number of such cases, only three arrests occurred. These cases were still under police investigation at year's end.

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

There were approximately 20,000 street children in major urban centers of the country; however, the figures were difficult to estimate. Many were thought to come from neighboring countries, including Cambodia and Burma. Although Bangkok authorities attempted to provide shelters, resources were inadequate and many of the children reportedly avoided the shelters for fear of being detained and expelled from the country.

There were many local NGOs that worked to promote children's rights in the country. Employers' organizations, such as the Employer's Confederation of Thailand, also were involved in child labor issues. These organizations received good working support from the Government.

Persons with Disabilities.—The Constitution provides for access to public facilities and prohibits employment and education discrimination against persons with disabilities; however, the Government did not enforce these laws effectively.

In 2002, the Constitutional Court upheld a judicial personnel law blocking persons with physical disabilities from becoming judges. The case was brought to the highest court after two persons with physical disabilities were denied the right to sit for the examination to become judicial officials. The Constitutional Court ruled that the personnel law does not contravene the Constitution, which proscribes unjust discrimination against a person on the grounds of physical or health conditions. At year's end, activists were appealing to Parliament to amend laws that allowed employment discrimination against persons with disabilities. One judge and approximately five state prosecutors in office at year's end were persons with disabilities.

The Government did provide 5-year interest-free small business loans for persons with disabilities. At year's end, 28,000 persons with disabilities had been granted these loans totaling \$13.6 million (545 million baht).

During the year, an estimated 222,522 children with disabilities attended school. The Government reported that 12,571 students were enrolled in one of the 43 special schools for students with disabilities; the remaining were enrolled in regular public schools. Nationwide, there were 9 government-operated and 16 NGO-operated training centers for persons with disabilities. However, with little education, very few adults with disabilities were able to find employment. Many of those who did find employment were subjected to wage discrimination. The law requires that private firms hire 1 person with a disability for every 200 other workers or contribute to a fund that benefits persons with disabilities, but this provision has not been enforced since it came into effect in 1991. Government officials estimated that between 20 and 30 percent of firms disregarded the law. Some state enterprises had discriminatory hiring policies.

The Constitution mandates access to public buildings for persons with disabilities, but laws implementing the provisions have not yet been enacted. The 1999 regulation that makes compliance mandatory was not enforced during the year. Persons with disabilities who register with the Government are entitled to free medical examinations, wheelchairs, and crutches.

Indigenous People.—Members of hill tribes without proper documentation, who accounted for approximately half of the estimated 1 million members of hill tribes, still faced restrictions on their movement, may not own land, and were not protected by labor laws, including minimum wage requirements. The law provides that citizenship is not automatically granted to children born to persons living illegally or without status in the country. However, citizenship legislation passed after the 1997 Constitution provided for expedited naturalization for persons whose families had been in the country for several generations, arrived before 1982 and could meet certain citizenship tests, including literacy in the country's language. After an initial wave of successful citizenship applications in the late 1990s, the process slowed. Approximately half of the potentially eligible candidates for naturalization have received citizenship since the law was enacted. The lack of citizenship can make hill tribe persons vulnerable to other abuses and exploitation such as trafficking (see Section 6.f.). They sometimes were denied adequate education and health care. Those residing in national parks or wildlife sanctuaries were subject to eviction. As noncitizen residents, they also were barred from participating in the political process (see Section 3).

In 2000, the Ministry Of Interior (MOI) redefined the category of hill tribe residents eligible for citizenship to include previously undocumented tribal persons, now collectively called "highlanders." The definition includes persons who formerly were

defined either as indigenous or migrants. The regulations were supposed to ease the requirements to establish citizenship by allowing a wider range of evidence, including testimony from references, and empowering local officials to decide cases. However, activists reported that widespread corruption and inefficiency at all levels, including among highland village headmen and government officials, caused the Government to miss the initial deadline for citizenship processing for certain groups of resident alien hill tribe members.

In 2002, the MOI revoked the citizenship of 1,243 persons in Mae Ai district, Chiang Mai Province. Government officials claimed that irregularities in the issuance of their identification documents invalidated their claim to citizenship. NGOs petitioned the Government to review each case on an individual basis to avoid penalizing persons entitled to citizenship. Several individuals had successfully regained their citizenship after proving their parents were Thai. DNA testing to prove Thai family relations was ongoing at year's end as more individuals tried to regain their citizenship.

Societal discrimination against hill tribe members, arising from widely held beliefs that they were involved in drug trafficking and environmental degradation, continued. Hill tribes occasionally were subjected to indiscriminate searches of villages for illegal drugs (see Sections 1.a. and 1.f.). There were credible reports that the Government seized the land in hill tribe areas. There were several allegations of mistreatment and abuse by the Third Army's Pha Muang Task Force, which jointly administers the hill tribe drug detoxification program with the Ministry of Public Health, the police, and the Ministry of the Interior. In Chiang Rai, provincial authorities required all drug addicts to register with village committees and to join the program. Those who registered were granted immunity from prosecution. The program was aimed at separating drug addicts from the traffickers. The army publicly acknowledged mistreatment occurred and promised to punish those found responsible for such abuses (see Section 1.a.).

National/Racial/Ethnic Minorities.—Unlike in previous years, there were no reports of persons in the Sino-Thai population that faced discrimination; however, Chinese Kuomintang and children of Vietnamese immigrants who resided in 5 northeastern provinces lived under a set of law and regulations that could have restricted their movement, residence, education, and occupation.

Section 6. Worker Rights

a. The Right of Association.—The law allows all private sector workers to form and join trade unions of their choosing without prior authorization; however, the law does not explicitly protect workers who participated in organizing unions that were not registered officially from discrimination. Union leaders reported that employers often discriminated against workers seeking to organize unions. During the year, employers used loopholes in the Labor Relations Act to fire union leaders prior to government certification of unions. Certified union executive committee leaders were also fired in contravention of Ministry of Labor regulations. Some alleged that this tactic was used in order to counter active workplace unions.

Less than 2 percent of the total work force, but nearly 11 percent of industrial workers and over 50 percent of state enterprise workers, were unionized. Cultural traditions, unfamiliarity with the concept of industrial relations, efforts by the Government to diminish union cohesiveness, and the majority share of total employment that is in the agricultural and informal sectors often were cited as reasons for low rates of labor organization.

State enterprise unions did not have the right to join private sector federations. However, unofficial contacts between public and private sector unions continued, and the Government did not interfere with these relationships.

Some corrupt private sector union leaders were exploited by politicians or employers, but public unions generally operated independently of the Government and other organizations. Internal conflicts, corruption, and a lack of influential leadership continued to weaken the labor movement.

Unions were free to associate internationally with other trade union organizations, and they maintained a wide variety of such affiliations.

b. The Right to Organize and Bargain Collectively.—The law provides for the right of private sector workers to organize and bargain collectively; however, the Government's response to violators of this law was weak. The Labor Relations Act defines the mechanisms for collective bargaining and for government assisted conciliation and arbitration in cases under dispute. In practice, genuine collective bargaining occurred only in a small fraction of workplaces and in most instances continued to be characterized by a lack of sophistication on the part of worker groups and autocratic attitudes on the part of employers. Wage increases for most workers came as a result of increases in the minimum wage, rather than as a result of collective bar-

gaining. The process of setting minimum wages locally through provincial tripartite committees may further limit union influence; many of these provincial committees excluded labor representatives and placed factory managers on the wage committees to represent worker interests. The Government sets wages for both civil servants and state-enterprise employees under the 2000 State Enterprise Labor Relations Act (SELRA) (see Section 6.e.).

The Government has the authority to restrict private sector strikes that would affect national security or cause severe negative repercussions for the population at large; however, it seldom invoked this provision and did not do so during the year. Labor law also forbids strikes in “essential services,” which is defined much more broadly than in the International Labor Organization criteria, and includes sectors such as telecommunications, electricity, water supply, and public transportation as essential services. The law also prohibits termination of employment of legal strikers; however, some employers used unfavorable work assignments and reductions in work hours and bonuses to punish strikers. SELRA provides public sector employees in state enterprises the same rights to organize as exist in the private sector. SELRA prohibits lockouts by employers and strikes by state-enterprise workers. No strikes were disapproved during the year, and four legal strikes were held. There were 17 illegal strikes involving 6,290 workers during the year.

The law prohibits antiunion actions by employers; however, it also requires that union committee members be full-time employees of the company, which makes them vulnerable to employers seeking to discipline workers who serve as union officials or who attempt to form unions.

A system of labor courts exercises judicial review over most aspects of labor law for the private sector. Workers also may seek redress for grievances through the Tripartite Labor Relations Committee. Redress of grievances for state-enterprise workers is handled by the State Enterprise Relations Committee. Labor leaders generally were satisfied with the treatment that their concerns received in these forums, although they complained that union leaders who were dismissed unjustly usually were awarded only back wages with no punitive sanctions against the employer.

No separate labor legislation applied in the nine export processing zones, in which wages and working conditions often were better than national norms because of the preponderance of foreign based multinational firms.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits forced or bonded labor, including by children, except in the case of national emergency, war, or martial law; however, the Government was unable to enforce these provisions effectively in the informal sector. During the year, there were reports of sweatshops in which employers prevented workers (primarily foreign migrants) from leaving the premises. There were no estimates of the number of such sweatshops, but the growing number of illegal aliens from Burma, Cambodia, and Laos increased the opportunities for such abuse. NGOs and the ILO reported thousands of underage boys and girls were brought into the country for labor on farms, in sweatshops, and very young children were used to work in street begging gangs.

d. Status of Child Labor Practices and Minimum Age for Employment.—The legal minimum age for employment is 15 years. The law permits the employment of children between the ages of 15 and 18 only in “light work,” where the lifting of heavy loads and exposure to toxic materials or dangerous equipment or situations is restricted. The employment of children at night (from 10p.m. to 6a.m.), or in places in which alcohol is served, is prohibited by law. It was estimated that approximately 1 million children nationwide worked on family farms. NGOs reported that 2 to 4 percent of children between the ages of 6 and 14 years worked illegally in urban areas; such children were at risk of becoming victims of other abuses of labor laws. Most underage workers in urban areas worked in the service sector, primarily at gasoline stations and restaurants. Child labor was not evident in larger foreign-owned or domestic export-oriented factories. However, there was no comprehensive survey of child labor in smaller enterprises, since NGOs did not have access to shop house factories. A 2002 survey by the National Statistics Office reported 10,728 children were employed in domestic work. NGOs reported child domestic workers were predominantly foreign, migrating from Burma, Cambodia, and Laos. Most were in the country illegally, increasing their vulnerability to exploitation. Minimum wage and age provisions of the 1998 Labor Protection Act do not apply to domestic workers, some of whom were believed to be under 15 years of age.

There were no further developments in the case of the July 2002 beating and burning death of a child domestic worker from Burma.

During the year, the Ministry of Labor employed 659 full-time inspection officers. Enforcement of child labor laws was not rigorous, and inspectors usually responded only to specific public complaints, reports of absences by teachers, or reports in

newspapers. Their inclination when dealing with violators was to negotiate promises of better future behavior, rather than to seek prosecution and punishment. Inspection of private homes to monitor the welfare of child domestic workers was hampered by the legal requirement to obtain a warrant. In August 1999, the Government attempted to address the problem of child labor by promulgating the National Education Act. The act raised the compulsory educational requirement from 6 years to 9 years of age, and offers 12 years of free education. Enforcement of the new provisions began in August 2002 (see Section 5). Observers reported their belief that the problem of child labor in industry diminished due to enforcement of recent laws and increased public scrutiny, as well as demographic changes resulting in fewer Thai children in the population. However, according to local NGOs and the ILO, the problem of street children (often foreign) working as beggars for organized gangs appeared to be increasing (see Section 6.c.).

The Ministry of Education provided various scholarships to approximately 6 percent of the country's primary students to allow them to remain in school. Lunch programs, tuition assistance for poor rural students, and scholarships for girls at risk were included. Approximately 60,000 volunteers, comprised of community leaders, parents, and teachers were appointed in villages to address child labor problems at the grassroots level.

The Labor Protection Act codifies the worst forms of child labor. Although not all child domestic workers fell under the worst forms, many were at risk due to their age, gender (predominantly female), legal status, and working conditions.

The law specifically prohibits forced or bonded labor by children; however, forced child labor was a problem (see Section 6.c.). There were several incidents during the year when children from foreign countries were found in indentured servitude in sweatshop facilities, and the incidence of children begging or selling flowers on urban streets appeared to be increasing. NGOs reported Cambodian and Burmese boys were impressed onto commercial fishing boats under debt bondage arrangements; safety conditions on the vessels were poor. Child domestic workers, primarily young girls, were also found in indentured servitude.

e. Acceptable Conditions of Work.—The minimum wage ranged from \$3.32 to \$4.20 (133 baht to 168 baht) per day, depending on the cost of living in various provinces. Minimum wages were set by provincial committees that sometimes included only employer representatives. This wage was not adequate to provide a decent standard of living for a worker and family. With extended family members' financial contributions, the minimum wage provided the basis for a marginally adequate overall standard of living. The Ministry of Labor is responsible for ensuring that employers adhere to minimum wage requirements (applicable to the formal sector); however, nationwide, academics estimated one-third of formal sector workers received less than the minimum wage, especially those in rural provinces. Despite encouragement of employees to report violations to labor inspectors, the enforcement of minimum-wage laws was mixed. Many labor laws, including the minimum wage law, do not apply to undocumented workers, primarily hill tribe members and illegal aliens. Unskilled migrant workers often worked for wages that were significantly lower than the minimum wage. An attempt to provide minimum wage protection to 580,000 migrants who registered in 2001 largely failed due to weak enforcement.

The Government mandated a uniform maximum workweek of 48 hours, with a limit on overtime of 35 hours per week. Employees engaged in "dangerous" work, such as in the chemical, mining, or other industries involving heavy machinery, legally may work a maximum of 35 hours per week. The petrochemical industry is excluded from these regulations.

Working conditions varied widely. The rate of injury from industrial accidents remained relatively constant over the last 10 years at 4.5 percent of the total work force. The Ministry of Labor stated that the average annual rate of work-related deaths was 15 per 100,000 workers. These rates applied only to industrial sector workers, however, and the rate of incidents occurring in the larger informal and agricultural sectors was thought to be higher by labor and grassroots groups. Occupational diseases rarely were diagnosed or compensated, and few doctors or clinics specialized in them. In medium-sized and large factories, government health and safety standards often were applied, but enforcement of safety standards was lax. In the large informal sector, health and safety protections were substandard.

Provisions of the Labor Protection Act include expanded protection for pregnant workers with prohibitions on working night shifts, overtime, or holidays, as well as for those working with dangerous machinery or on boats.

The Ministry of Labor promulgates health and safety regulations regarding conditions of work; however, the inspection department enforced these standards ineffectively, due to a lack of human and financial resources. There is no law affording job protection to employees who remove themselves from dangerous work situations.

Redress for workers injured in industrial accidents was rarely timely or sufficient. Few court decisions were handed down against management or owners involved in workplace disasters. In May, a local court acquitted the 14 engineers and managers for their role in the 1993 Kader Toy Factory fire which killed 188 female workers and injured an additional 469. The only penalty imposed was a US \$12,400 fine (496,000 baht).

The 1997 Constitution stipulates that all persons are entitled to equal protection by law. However, migrant workers, particularly those from Burma, faced significant hardships and physical danger during the year. Burmese factory workers, both illegal and properly registered, faced poor wage, safety and health conditions and were subject to dismissal, arrest and deportation for demanding improvements. Community groups and NGOs alleged instances of physical intimidation and abuse by criminals employed by factory owners, and harassment and robbery by gangs of young men. There were several instances of sexual abuse of the primarily young and female Burmese migrants employed in textile production. Burmese labor activists alleged several incidents of Burmese commercial fishermen employed on Thai vessels who were killed at sea after disputes with their employers. Child domestic workers were at special risk of labor abuse (see Section 6.d.).

The Government reported deporting 205,944 illegal workers during the first 9 months of the year, most of them to Burma. NGOs reported that a large number of those deported returned soon thereafter. Collusion between factory owners and immigration officers in areas employing legally registered migrants frustrated workers attempts to attain minimum wage protection. For example, in February a group of Burmese women won a landmark labor court decision to award back wages; however, they were immediately fired and deported. In July, immigration officials deported 345 registered migrant workers who conducted a sit-down strike to protest wages half the legal minimum. In December, 260 mostly registered female workers were deported when they claimed the factory owed them a minimum wage. Some subsequently returned to the country illegally to pursue the case in labor court.

In September 2001, the Government undertook an open registration campaign directed at the estimated 1 million to 1.5 million illegal Burmese, Cambodian, and Lao workers already present in the country. The 580,000 migrants who registered were allowed to remain in the country with specified employers for 1 year, and were required to re-register annually for additional twelve-month extensions. Health care for the migrants (but not family dependents) was included in an imposed registration fee. Provisions of the Labor Protection Act technically were extended to this group, although lax enforcement meant that there was little real progress in improving migrant working conditions. In September the Government extended this program for a final year, but only for already registered migrants. Only 288,000 migrants re-registered; many were deterred by high registration costs and the rigidity of rules limiting employer changes.

f. Trafficking in Persons.—The law prohibits trafficking in persons; however, trafficking in persons was a serious problem. The country was a source, transit, and destination for trafficking in women and children for a variety of purposes, including indentured servitude, forced labor, and prostitution (see Section 5). Some local officials, immigration officers, and police reportedly either were involved in trafficking directly or took bribes to ignore it. The 1997 Prevention and Suppression of Trafficking in Women and Children Act increased the penalties for trafficking in women and children for the purposes of prostitution or slave labor, and provided for wide powers of search and for assistance to victims. There are also antitrafficking provisions in the 1996 Prostitution Prevention and Suppression Act. The authorities occasionally used these powers during the year, but the number of prosecutions remained small compared to the scope of the problem. A money-laundering law, which became effective in August 1999, included provisions to enable authorities to confiscate the assets of persons convicted of trafficking or engaging in the business of prostitution. On May 28, a 50-year-old Japanese man was arrested and charged with trafficking Chinese and Thai women to work as prostitutes and cheap laborers in Japan, the United States, Canada, and Britain.

Government and NGO estimates of the number of women and children engaged in prostitution in the country varied widely. Many NGOs and government departments reported a figure of 200,000 persons, which was considered a conservative estimate. This figure included children under the age of 18 years, but not foreign children whom the U.N. and NGOs believe make up an increasingly large proportion of trafficking victims. The number of victims of trafficking not involved in prostitution and including men, women, and children was unknown but believed to be substantial.

Within the country, women were trafficked from the impoverished Northeast and the North to Bangkok for sexual exploitation. Women also were trafficked inter-

nationally to Japan, Taiwan, Australia, Europe, and the United States, chiefly for sexual exploitation, but also for sweatshop labor. Men were trafficked into the country for commercial fisheries and farm, industrial, and construction labor.

Women and men were trafficked from Burma, Cambodia, the People's Republic of China (PRC), and Laos into the country for labor and sexual exploitation. Boys and girls were trafficked chiefly from Burma and Cambodia primarily for sexual exploitation and to work in begging gangs. Young children, either orphans or those sold by their families, were among them. For example, very young Cambodian children were employed by begging gangs in Bangkok. Occasionally entire families were trafficked for labor in sweatshops. Underage boys reportedly were brought into the country for specialized work in which small size was an advantage. Vietnamese citizens also reportedly were trafficked to the country in smaller numbers. According to domestic NGOs, girls between the ages of 12 and 18 years continued to be trafficked from Burma, southern PRC, and Laos to work in the commercial sex industry. Social workers noted that young girls were prized because their clients believe that they were free of sexually transmitted diseases. Persons trafficked from the PRC often were in transit to other countries, although women and girls from Yunnan Province generally were destined for brothels in the north. Generally victims from Yunnan Province were lured into the country with promises of restaurant or household work and then were pressured or physically forced into prostitution.

During the year, trafficking raids found 29 women and 6 minors in Chiang Mai. The victims were transferred to a government-run shelter, and many were repatriated to Burma. The owner of the brothel was in police custody. The case was pending at year's end. The manager of the brothel was arrested and remained in jail, and arrest warrants were issued for seven other partners of the sex venue.

The U.N. Economic and Social Council and NGOs believed that the lack of citizenship status for some hill tribe women and children was a strong risk factor for becoming victims of trafficking. Although this group was not a large percentage of trafficking victims, they were found in disproportionately large numbers in situations entailing the worst forms of trafficking.

Impoverished families sent or sold children to traffickers, often a neighbor, a local official, or some other respected local person. During the year, the mother who sold her 12-year-old girl into prostitution in 2002 was convicted and sentenced to seven years in prison; the police lieutenant to 18 years; the sergeant to 8 years; the madame to 240 years. The sentences have been appealed and the case remained in Appeals Court at year's end.

Sometimes villagers saw the local traffickers as friends offering a way out of poverty. Typically, local traffickers fed persons into larger networks, after which they exercised no further control and heard no more of them. Traffickers sometimes misrepresented the type of work and working conditions, and victims subsequently found themselves forced to remain and work in the border areas. Some women who contracted for other kinds of work found themselves coerced into the sex trade. Indentured work, both sex work and other labor, was also a problem.

Trafficking through the country to onward destinations tended to be conducted by citizens of the PRC and other international organized criminals. Trafficking into and within the country generally was conducted by domestic criminal elements.

There continued to be credible reports that some corrupt police, military, and government officials were involved directly in trafficking or taking bribes to ignore it (see Sections 1.c. and 5). Police personnel were paid poorly, and widely accustomed to taking bribes to supplement their income.

The majority of prostitutes were not kept under physical constraint, but a large number worked in debt bondage. Brothel procurers reportedly advanced parents a substantial sum against their daughter's future earnings, frequently without the consent of the young woman involved. The women were obligated to work in a brothel to repay the loan.

Many Thai women were trafficked to Japan for purposes of sexual exploitation. Traffickers promised victims lucrative legitimate employment, or made false promises regarding wages, working conditions, or the nature of the work. According to Human Rights Watch, upon their arrival in Japan, the traffickers confiscated the victims' passports, demanded repayment for their "purchase," and charged the victims for living expenses and care, and fined them for misbehavior. Traffickers often restricted the women's movements, threatened them and their families, isolated them, and used violence to punish them for disobedience.

Because foreign women frequently were unable to speak the language and were considered illegal immigrants, they particularly were vulnerable to physical abuse and exploitation. Some women were lured into the country with promises of jobs as waitresses or domestic helpers, but ended up working as prostitutes. Illegal immigrants had no rights to legal counsel or health care if arrested (see Section 2.d.).

The amnesty provisions available under the UNHCR auspices did not apply to such women. In May, a series of Memoranda of Understandings (MOU) between Government agencies and between the Government and domestic NGOs provided for some detailed police procedures to assist with the problem of trafficked persons being detained by the authorities. The agreement stated that the training of police officers would include instructions to treat such persons as victims of human trafficking rather than as illegal immigrant workers. Rather than being deported, they become the responsibility of the Public Welfare Department. However, implementation of the MOU continued to be erratic during the year, due to insufficient training of law enforcement officials and their unfamiliarity with the law.

In September, the Government deported approximately 200 Cambodian women and children, some who were victims of trafficking.

Illegal immigrants generally were repatriated as soon as possible; however, in order to implement the new policy of humane treatment for victims of trafficking, Department of Public Welfare (DOPW) officials tried to refer underage and foreign women arrested for prostitution to one of the government shelter houses. Repatriation was delayed, but not canceled. Victims were encouraged to seek legal action against the traffickers, and they were told by DOPW personnel at the shelters that this was an option. Trafficking victims who provided evidence were repatriated back to their home countries afterwards. However, in general, trafficking victims were reluctant to assist in prosecution. This was due to mistrust of the authorities and fear of the traffickers, as well as the victim's limitations in education and language, and a desire to return home rather than to participate in lengthy criminal proceedings.

Several NGOs, both local and international, and government agencies worked with trafficking victims. However, the Government faced severe budgetary limitations on its ability to fight trafficking and to aid its victims. Two national committees were directed and empowered to combat trafficking, and these committees coordinated and cooperated with NGOs as well. The National Committee on Trafficking in Women and Children (NCTWC) was concerned primarily with counter trafficking efforts within the country, while the National Project Committee on Trafficking in Women and Children in the Mekong Subregion focused on regional efforts. Local enforcement officers were sometimes ignorant of new laws and regulations designed to protect victims and ignorant of the special requirements of anti-trafficking work. Also, police officers did not view anti-trafficking as a path to advancement because their superiors did not emphasize it. Narcotics and serious crimes were the preferred career concentrations, while the attitude that trafficking also qualified as a serious crime was only slowly developing. Another barrier for stricter enforcement was the court system, which could be cumbersome and time consuming (see Section 1.e.).

TONGA

The Kingdom of Tonga is a constitutional monarchy in which political life is dominated by the King, the nobility, and a few prominent commoners. The unicameral Legislative Assembly consists of the Cabinet, made up of 9 ministers and 2 governors appointed by the King; 9 nobles elected by their 33 peers; and 9 representatives elected by the general population in periodic free and fair elections. The most recent parliamentary elections were held in March 2002. The judiciary is generally independent but is on occasion subject to royal influence.

The security apparatus consists of the Tonga Defense Services (TDS) and a police force. The civilian authorities maintained effective control of the security forces. The Minister of Defense controls a 430-man TDS force; the Minister of Police and Prisons directs the police force. Unlike in some previous years, there were no reports that members of the police committed human rights abuses.

The country had a population of approximately 105,000 and a per capita GDP of approximately \$2,200. The economy is based primarily on the cultivation of tropical and semitropical crops. The rate of economic growth was approximately 1.9 percent. Wages and benefits largely kept pace with inflation. The demand for imported goods and products led to a substantial trade deficit, which was offset largely by remittances from overseas citizens, foreign aid, and, to a lesser degree, tourism.

The Government's human rights record remained poor. Citizens do not have the right to change their government. At times, the authorities infringed on freedom of speech and of the press. Some women suffered from domestic violence; women also faced discrimination and limited employment and economic opportunities. In practice, the right to form labor unions was restricted by the lack of implementing regulations.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and there were no reports that government officials employed them.

Prison conditions were Spartan but reflected local living standards. There were separate facilities for pretrial detainees and convicted prisoners, men and women, and adults and juveniles. Church representatives and family members were permitted to visit prisoners. No nongovernmental organizations (NGOs) attempted to monitor prison conditions, and the permissibility of such visits has not arisen.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The Constitution provides for the right to judicial determination of the legality of arrest, and this was observed in practice. There are no statutory limits on the length of time a suspect may be held prior to being charged. There were no reports of preventative detention or other lengthy pretrial detention. The law permitted unlimited access by counsel and family members to detained persons; however, there reportedly were instances in which detainees were denied legal counsel.

The police force is comprised of approximately 400 officers under the control of the Minister of Police. Incidents of bribe-taking and other forms of corruption occurred during the year. Allegations of corruption were made against the Minister of Police in the press, but no charges were brought against him by year's end. The Minister sued the newspaper *Taimi 'o Tonga* (Times of Tonga) for defamation; the case was pending at year's end (see Section 2.a.). The Government took no steps to reform the police during the year.

The Constitution and law do not prohibit forced exile, but the Government did not employ it in practice. The last case of forced exile was in 1886.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The judiciary generally provided citizens with a fair and efficient judicial process. The judiciary, whose highest-ranking judges historically have been foreign nationals, was generally independent but was on occasion subject to royal influence. Judges held office "during good behavior" and otherwise could not be dismissed during their terms.

The court system consists of the Supreme Court (which has original jurisdiction over all major cases), the police magistrates' courts, a general court, a court martial for the TDS, a court tribunal for the police force, and a court of review for the Inland Revenue Department. The Court of Appeals is the highest court. The King's Privy Council presides over cases relating to disputes over titles of nobility and estate boundaries. The King has the right to commute death sentences in cases of murder or treason.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. A court may not summon anyone without providing a written indictment stating the charges. Defendants are presumed innocent, are entitled to counsel, have a right of appeal, and are entitled to bail; lawyers have free access to defendants.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press; however, at times the authorities infringed on these rights.

There were eight newspapers and newsmagazines in print: Three weeklies, one of which was government-owned; three monthlies; one bimonthly; and one quarterly. There were two privately owned television stations and one government-owned station. The government-owned radio station broadcasted on AM and FM frequencies. There were three privately owned radio stations. Government-controlled media outlets were criticized for exercising self-censorship.

In February, the Government banned the *Taimi 'o Tonga* on the grounds that the newspaper unfairly criticized the monarchy and abused its journalistic freedom. In June, the Chief Justice ruled the ban illegal. The Government responded by seizing copies of the paper, which is printed abroad, upon arrival. After further intervention

by the Chief Justice, the papers were released, and 4,000 copies sold out immediately.

In response, the Government submitted a Media Bill to Parliament which would amend the country's Constitution to limit freedom of the press, abolish judicial review of certain legislation, and end the right to claim damages for breach of constitutional rights. NGOs, foreign governments, and many citizens expressed strong opposition to the bill. In October, in the largest political demonstration in the country's history, thousands of citizens peacefully marched to present a petition to the Privy Council requesting that the bill not be made into law. Nonetheless, this highly contentious bill was passed by Parliament. In November, the bill was signed into law by the King, although this was not publicly acknowledged until late December. All but one of the nine elected representatives to the Legislature voted against the bill; the ninth was absent. However, a royalist political group, Kotoa ("Together"), supported the bill. Some observers further noted that given the automatic royal majority in Parliament, the views of citizens were of little consequence to the governance of the country.

In July, the Human Rights and Democracy Movement In Tonga (HRDMT) accused the Government of censoring a Radio Australia news bulletin about public antipathy to the Media Bill. The HRDMT alleged that such censorship of foreign broadcasts occurred regularly.

While there was little editorializing in the government-owned media, opposition opinion appeared regularly in the form of letters to the editor along with government statements and letters. The national media, from time to time, carried comments critical of government practices and policies, including some made by prominent citizens. The law allows government officials to bring defamation suits, as well as suits by officials and other individuals against media outlets that publish allegedly defamatory remarks. This may have had the practical effect of limiting freedom of speech. The Minister of Police sued the Taimi 'o Tonga for defamation; the case was pending at year's end.

During the year, sedition charges, previously filed against two members of HRDMT for their involvement in the publishing of a forged letter containing allegations against the King, were dropped.

The Government did not restrict academic freedom.

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

In October, thousands of Nuku'alofa residents participated in a peaceful march to protest a proposed amendment to the Constitution that would restrict media freedom. The demonstration was the largest in the country's history and coincided with smaller marches in the outlying islands of Vava'u, Ha'apai, and Ewa. The police closed off streets in Nuku'alofa to permit the marchers to pass (see Section 2.a.).

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

Tonga Broadcasting Commission (TBC) guidelines require that religious programming on Radio Tonga be confined "within the limits of the mainstream Christian tradition." The TBC did not allow members of the Baha'i Faith to discuss the tenets of their religion, or to refer to the founder, Baha'ullah, by name. Similarly, the TBC did not allow the Church of Jesus Christ of Latter-day Saints (Mormons) to discuss its founder, Joseph Smith, or the Book of Mormon by name.

Mormons and members of some other faiths used Radio Tonga for the announcement of church activities and functions. Members of the Baha'i Faith utilized a privately owned radio station for program activities and the announcement of functions. A government-owned newspaper occasionally carried news articles about Baha'i activities or events, as well as those of other faiths.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the Government generally respected them in practice. Citizens were free to travel at will within the country and abroad.

The Government was not a signatory to the 1951 Convention Relating to the Status of Refugees and its 1967 protocol. No person was known to have applied for refugee status, and the Government has not formulated a formal policy regarding refugees, asylees, or temporary protection. The issue of the provision of temporary protection has never arisen.

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

Citizens do not have the ability to change their leaders or the system of government. The King and 33 hereditary nobles dominated political life. They asserted authority largely through control of substantial landholdings and their dominant numbers in the Legislative Assembly (Parliament). While the Constitution allows the monarch broad powers, many of which do not require the legislative branch's endorsement, the King at times permitted the legislative system to operate without his guidance. The King appoints the Prime Minister and appoints and presides over the Privy Council (called the Cabinet when the King is not presiding), which makes major policy decisions. The Cabinet is made up of nine ministers and two governors; it included both nobles and commoners, who served at the King's pleasure.

The unicameral Legislative Assembly consists of the Cabinet, nine nobles elected by their peers, and nine representatives elected by the general population. The King appoints the Speaker from among the representatives of the nobles; however, Cabinet members and nobles usually voted as a bloc. In September 2002, a proposal for political reform was submitted by HRDMT to the Legislative Assembly. The proposal advocated the creation of a bicameral assembly, with the nine noble members moved to an upper house. The lower "House of Commoners" would consist of 21 popularly elected members. As of year's end, Parliament had not yet addressed the proposal.

The King's son, Prince 'Ulukalala Lavaka Ata, served as Prime Minister. As Prime Minister, the Prince also held five other ministerial portfolios, including those of defense and foreign affairs.

Parliamentary elections held in March 2002, deemed to be free and fair, resulted in a strong showing for prodemocracy candidates on the main island of Tongatapu. Before the elections, a royalist political group, Kotoa, was formed with the support of Princess Pilolevu as a counterweight to the pro-democracy movement; however, it lacked broad popular support. The next parliamentary elections are scheduled for March 2005.

In 2002, the Government publicly launched an economic and public sector reform program, led by a Cabinet Reform Committee and composed of five teams. The team concerned with private sector reform included members of the Chamber of Commerce; otherwise, there was no opportunity for participation in the reform program by the general population. By year's end, the Government had not yet issued a draft report on the program, nor had it issued any recommendations.

Very few citizens challenged the retention of the monarchy; the King was greatly respected. However, in recent years, a number of persons both inside and outside the establishment have called for democratic change, usually emphasizing the importance of more government accountability.

A prodemocracy movement continued during the year, although it lacked formal structure due to differences of views among its leaders. Seven of the nine parliamentary representatives of the general population advocated various degrees of democratic reform. Proposals for constitutional revision tended to center on the popular election of all parliamentarians, with the parliamentarians selecting their speaker.

No woman has ever served as a government minister. There are no female members of parliament, although there have been in the past.

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

There are no legal barriers to the formation of domestic human rights NGOs. Some domestic NGOs dealt with human rights issues, but none undertook investigations of alleged violations. There were no restrictions on operations by international human rights groups, and no known requests for investigations during the year.

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

Social, cultural, and economic facilities were available to all citizens regardless of race or religion, but members of the hereditary nobility had substantial advantages, including control over most land and a generally privileged status. It was possible for ordinary citizens to hold cabinet positions in government and to accumulate great wealth and status in the private sector.

Women.—Societal violence against women seldom was publicized, but it was a growing problem. Incidents of domestic violence generally were addressed in traditional ways within families or by village elders. Such abuse seldom was reported to the police. Domestic violence could be prosecuted under laws against physical assault. Abused wives sometimes returned to their families if mediation failed. There were shelters for abused and troubled women, most church affiliated, and the Free Wesleyan Church ran a hotline for women in trouble.

Rape is punishable by imprisonment for a term of up to 15 years. However, the law does not recognize spousal rape and specifically states that carnal intercourse by a man and his wife shall not under any circumstance be deemed rape.

Prostitution per se is not illegal, but activities such as soliciting in a public place, pimping, operating a brothel, and trading in women are criminal offenses. Sexual harassment, as such, is not a crime, but physical sexual assault could be prosecuted as indecent assault.

Women held several significant posts in government, including Secretary to Cabinet in the Prime Minister's Office and Secretary of Foreign Affairs. Women also headed the Office of Crown Law and the Government Central Planning Office. The majority of commissioned officers in the police force were women. For a woman to rise to a position of leadership, she usually needed the support of the nobility. The King's mother reigned for 46 years, and a royal princess was one of the country's most prominent businesspersons. Some female commoners held senior leadership positions in business.

Inheritance laws, especially those concerned with land, discriminated against women. Women could lease but not own land. Under the inheritance laws, the claim to a father's estate by a male child born out of wedlock took precedence over the claim of the deceased's widow or daughter.

The Women and Development Center (formerly the Women's Affairs Unit) in the Prime Minister's Office was established in 1993. Although some NGOs initially viewed this unit with suspicion, it appeared to be functioning cooperatively with them. Its objectives included the promotion of full and equal participation of men, women, and children in economic, social, and cultural development, and the enhancement of women's economic status and role in the national economy. However, many young, educated women still considered the unit ineffective. A government-sponsored National Council of Women conducted training workshops, mainly in rural areas, and contributed to women's social and economic needs.

The Center for Women and Children, an NGO under the auspices of the Catholic Church, focused on domestic abuse and improving the economic and social conditions of women and offered counseling to women in crisis. During the year, the Center worked to raise funds to establish the country's first safehouse for battered women.

Children.—The Government was committed to children's human rights and welfare and provided commensurate funding for children's welfare given available resources. Education was compulsory from ages 6 to 14. Although sometimes criticized as being of poor quality, education was available for all children through Form 6 (high school). Almost all children attended school.

The Government provided free basic medical care to children. Child abuse was rare, and the extended family generally participated in child rearing.

Persons with Disabilities.—There are no mandated provisions for accessibility to buildings and services for persons with disabilities. There were no reported complaints of discrimination in employment, education, or provision of other government services. The education of children with special needs has been a longstanding priority of the Queen.

National/Racial/Ethnic Minorities.—According to the Ministry of Labor, ownership and operation of food retail stores in the country has been legally restricted to citizens since the early 1980s. However, the retail sector in many towns has become increasingly dominated by foreigners, particularly Chinese nationals. During the year, the Immigration Department of the Ministry of Foreign Affairs attempted to enforce the restrictions in an effort to curb growing illegal immigration. Although some foreigners left as a result of the policy, others moved to nonrestricted sectors of the economy.

Section 6. Worker Rights

a. The Right of Association.—Workers gained the right to form unions under the 1963 Trade Union Act, but regulations on the formation of unions were never promulgated, and there were no unions. The Friendly Islands Teachers Association and the Tonga Nurses Association were incorporated under the Incorporated Societies Act. However, they had no formal bargaining rights under the Act.

The 1963 Act provides workers with the right to strike; however, implementing regulations never have been formulated. There were no strikes during the year.

b. The Right to Organize and Bargain Collectively.—Since there were no unions, collective bargaining was not practiced.

Labor laws and regulations were enforced in all sectors of the economy, including in the two small export-processing zones.

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

d. Status of Child Labor Practices and Minimum Age for Employment.—Although there is no legislation prohibiting child labor, it did not exist in the wage economy.

The country was not a member of the International Labor Organization (ILO) and has not ratified ILO Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work.—There is no minimum wage law, although there were government guidelines for wage levels. Labor laws and regulations, enforced by the Ministry of Labor, Commerce, and Industries, limited the workweek to 40 hours. The Ministry of Labor enforced laws and regulations reasonably well in the wage sector of the economy, particularly on the main island of Tongatapu. Enforcement in the agricultural sector and on the outer islands was limited.

Industrial accidents were rare, since few industries exist that would expose workers to significant danger; thus, the Government seldom addressed industrial safety standards, including the right of workers to remove themselves from dangerous work situations.

f. Trafficking in Persons.—While the law does not specifically address trafficking in persons, violators could be prosecuted under anti-slavery statutes. There were no reports that persons were trafficked to, from, or within the country.

TUVALU

Tuvalu is a parliamentary democracy. The Head of State is Queen Elizabeth II, represented by the Governor General, who must be a citizen of Tuvalu. In July 2002, citizens elected a 15-member unicameral Parliament in free and fair elections. A Prime Minister is selected by Parliament. The judiciary is independent.

A 70-member police constabulary, the only security force, is responsible to and effectively controlled by civilian authority.

The country has a population of approximately 10,000 persons on 9 atolls in the central South Pacific Ocean. The primarily subsistence economy relied mainly on coconuts, taro, and fishing. Remittances from citizens working abroad, the sale of postage stamps, and the sale of fishing licenses to foreign vessels provided additional foreign exchange. Tuvalu also relied on interest income generated by the Tuvalu Trust Fund and sales of the “.tv” internet country designation, which had earned a total of \$8 million as of 2002. The country’s isolation limited opportunities for economic development.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of addressing individual instances of abuse. However, traditional customs and social behaviors considered as important as the law led to some social discrimination. Women traditionally occupy a subordinate role, with limits on their job opportunities.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and there were no reports that government officials employed them. Local hereditary elders exercised considerable traditional authority, including the right to inflict corporal punishment for infringing customary rules, which can be at odds with the national law. However, such corporal punishment was seldom invoked.

The country has one minimum-security prison facility, located near the airport and segregated by sex. Adults are held at this facility, and children are remanded to their family’s custody. The men’s section can accommodate 35 inmates, the women’s section 20. During the year, the number of prisoners was far below the maximum capacity; there were no female prisoners at year’s end. There was also a single holding cell at the police station for detentions of less than 24 hours. Pretrial detainees were usually released on their own recognizance. Pretrial detainees charged with a serious crime, such as homicide, could be held in the prison; in practice, this has not occurred.

Detentions longer than a week were rare; more commonly, a person was jailed overnight on charges of inebriation. While prison conditions were somewhat Spar-

tan, complaints were minimal or nonexistent. Prison conditions generally met international standards.

The question of prison visits by human rights groups did not arise. Visits by church groups and family members were permitted.

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

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

There is a two-tier judicial system. Higher courts include the Privy Council, the Court of Appeal, and the High Court. Lower courts consist of senior and resident magistrates, the island courts, and the land courts. The Chief Justice, who is also Chief Justice of Tonga, sits on the High Court approximately once a year.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The Constitution provides that the accused must be informed of the nature of the offense with which they are charged and provided the time and facilities required to prepare a defense. The People's Lawyer (public defender) expressed concern that bureaucratic delays sometimes resulted in several months passing before the accused were informed of the charges against them. The right to confront witnesses, present evidence, and appeal convictions is provided by law. Procedural safeguards are based on English common law. The services of the independent People's Lawyer are paid by the Government and available to all citizens without charge.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the media, and the Government generally respected these rights in practice. An effective judiciary and a functioning democratic political system combined to ensure freedom of speech and of the press, including academic freedom.

In 2001, the country's sole radio station, formerly controlled by the Government was converted by statute to the status of a public corporation, the Tuvalu Media Corporation (TMC). According to TMC's charter, the Secretary to Government serves as the Chairman of the Board and the Prime Minister's duties include oversight of the TMC. In practice, all copy to be aired by the TMC must be approved by the Secretary to Government, and he reportedly has blocked or delayed stories favorable to the opposition. Videotapes circulated freely and were widely available; however, pornography in all forms is illegal.

The Office of the Prime Minister and the Department of Telecommunications in the Ministry of Works manage Internet services. There were no government restrictions on Internet access.

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

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

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

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

The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. No person has applied for refugee status, and the issue of the provision of temporary protection has never arisen. The Government has not formulated a policy regarding refugees, asylees, or temporary protection. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Citizens freely and directly elect a 15-member unicameral Parliament whose normal term is 4 years. Each of

the country's nine atolls is administered by a six-person council, also elected by universal suffrage to 4-year terms. The minimum voting age is 18 years.

The Cabinet consists of the Prime Minister, elected by secret ballot from among the Members of Parliament, and four other ministers, appointed and removed from office by the Governor General with the advice of the Prime Minister. The Prime Minister may appoint or dismiss the Governor General on behalf of the British monarch. The Prime Minister may be removed from office by a parliamentary vote of no confidence.

Elections held in July 2002 were free and fair. Of the 15 members elected to Parliament, 6 were serving their first term. In August 2002, the new Parliament elected Saufatu Sopoanga, a former civil servant, as Prime Minister. He replaced Koloa Talake, who had replaced Faimalaga Luka after the latter received a vote of no confidence in 2001.

In June, two by-elections were held, one to replace a parliamentarian who passed away and a second to replace a parliamentarian who was disqualified by the Chief Justice for having failed to register properly. A third by-election was held in October to replace Faimalaga Luka, who resigned as Speaker of Parliament to assume the position of Governor General.

There are no formal political parties; however, Parliament was informally divided between a faction that supported the Sopoanga Government and a faction that did not.

From November 2002 until October 2003, Prime Minister Sopoanga refused to convene Parliament in order to avoid a likely no-confidence vote that would have removed him from power. During most of that period, the "Opposition" held a majority in Parliament, as the June by-elections replaced "government" parliamentarians with members of the Opposition. During this stand-off, the Opposition appealed to the Chief Justice, who ruled that the Governor General has the constitutional authority to convene Parliament, but set no deadline in which to do so. The October by-election restored the government majority, and Parliament was subsequently convened.

Participation by women in government and politics was limited, largely due to cultural traditions. There were no female Members of Parliament or Cabinet Ministers.

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

While no known barriers block their establishment, there are no local nongovernmental organizations (NGOs) concerned solely with human rights. Some political and human rights advocates operated under the aegis of the Tuvalu Association of Nongovernmental Organizations, which was composed primarily of religious organizations. The People's Lawyer, who served as a public defender, also monitored sentencing, equality before the law, and human rights issues in general. This institution was supported by the Government, which frequently sought its advice. At times, it has been critical of the Government; however, there have been no allegations of human rights violations by the Government and no known requests for investigations.

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

The Constitution prohibits discrimination on the basis of race, creed, sex, or national origin, and the Government observed these prohibitions. However, a scarcity of wage-paying jobs and the traditional culture has limited women's job opportunities.

Women.—Violence against women was rare. Domestic violence was relatively infrequent and has not become a source of societal concern. Rape is a crime punishable by a minimum sentence of 5 years imprisonment; however, spousal rape is not included in the legal definition of this offense. The People's Lawyer sought to broaden public knowledge of women's rights, particularly in regard to spousal rape and domestic abuse.

Prostitution and sex tourism are illegal; legislation in 2000 abolished phone sex companies, which had used the country's international telephone dialing prefix. While there are no laws prohibiting sexual harassment, the Penal Code provides specific recourse against indecent behavior, which requires lewd touching.

Women increasingly held positions in the health and education sectors and also were more active politically. In an economy with few wage-paying jobs, women held the clear majority of clerical and retail positions. In 2000, the Government established a women's department in the Ministry of Internal Affairs; however, it took no significant action during the year.

Children.—The Government provided commensurate funding for children's welfare within the context of its total available resources. Education was compulsory

for children through age 13. Students competed for academic scholarships to attend universities overseas or participated in vocational training focusing on subsistence farming and maritime training for men and computer or other business training for women. During the year, an NGO human rights advocate convinced Vaiputu School's secondary students to end a protest against a teacher perceived as too strict. The teacher retained her job.

The Government provided free medical care for children through age 18. There were no reports of child abuse.

Persons with Disabilities.—There were no known reports of discrimination against persons with disabilities in employment, education, or in the provision of other state services. There are no mandated accessibility provisions for persons with disabilities.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right of association. Workers were free to organize unions and choose their own labor representatives, but most of the population lacked permanent employment and was engaged in subsistence activity.

Public sector employees such as civil servants, teachers, and nurses, who total fewer than 1,000 employees, are members of professional associations that do not have union status. The only registered trade union, the Tuvalu Seamen's Union, has approximately 600 members who work on foreign merchant vessels. Unions may affiliate with international bodies, and the Seamen's Union is a member of the International Transportation Workers' Federation.

The country is not a member of the International Labor Organization.

b. The Right to Organize and Bargain Collectively.—The law provides for conciliation, arbitration, and settlement procedures in cases of labor disputes. Although there are provisions for collective bargaining, in practice private sector employers set wages. Both private and public sectors generally used nonconfrontational deliberations in a local multipurpose meeting hall to resolve labor disputes rather than legal procedures.

The law provides for the right to strike, but no strike has ever taken place.

There are no export processing zones.

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

d. Status of Child Labor Practices and Minimum Age for Employment.—The law prohibits children under the age of 14 from working. The law also prohibits children under 15 years of age from industrial employment or work on any ship and stipulates that children under the age of 18 are not allowed to enter into formal contracts, including work contracts. Children were rarely employed outside the traditional economy of subsistence farming and fishing.

e. Acceptable Conditions of Work.—The minimum wage, set administratively by the Government, was sufficient to allow a worker and family in the wage economy to maintain a decent standard of living. The biweekly minimum wage in the public (government) sector was \$75.66 (\$A130), regardless of sex and age. In most cases, the private sector adopted the same minimum wage rate.

The Labor Office may specify the days and hours of work for workers in various industries. By law, the workday is set at 8 hours. The majority of workers are outside the wage economy. The law provides for rudimentary health and safety standards. It requires employers to provide an adequate potable water supply, basic sanitary facilities, and medical care. The Ministry of Labor, Works, and Communications is responsible for the enforcement of these regulations, but in practice, it provided only minimum enforcement.

Workers can remove themselves from work situations that endanger health or safety without jeopardy to their jobs; the law also protects legal foreign workers.

f. Trafficking in Persons.—The law prohibits procurement of persons within and across borders for purposes of prostitution, but it does not mention or prohibit trafficking specifically. However, there were no reports that persons were trafficked to, from, or within the country.

VANUATU

Vanuatu, a small South Pacific island nation that gained independence from Britain and France in 1980, has a parliamentary form of government. The Constitution

provides for parliamentary elections based on universal suffrage every 4 years, through which citizens may change their government freely. The 52-member Parliament elects the Prime Minister as the Head of the Government and the President as the Head of State. The latter's powers are largely ceremonial, except when appointing judges or acting on the advice of the Council of Ministers, who are appointed by the Prime Minister. Political legitimacy is based on majority rule. Parliamentary majorities have been unstable. The most recent elections, held in 2002, were considered generally free and fair; incumbent Prime Minister Edward Natapei formed a new government based on a coalition parliamentary majority. The judiciary is generally independent of executive interference.

The Police Commissioner commands the country's small police force, including its paramilitary wing, the Vanuatu Mobile Force (VMF). The country has no military force; the VMF has both domestic and external security responsibilities. The civilian authorities generally maintained effective control of the police; however, police officials on occasion have acted peremptorily or at the direction of senior politicians attempting to settle a score or intimidate opponents. There were reports that a few members of the police committed human rights abuses.

The economy is market based, with tourism the biggest source of foreign exchange. As of 2002, the population was approximately 200,000, more than 80 percent of whom were engaged in subsistence farming and fishing. The service sector represented the largest component of the country's formal economy and provided most formal employment, primarily in government, tourism, and an offshore financial sector. Real gross domestic product fell in both 2001 and 2002, by 1.8 and 3.4 percent respectively. A modest recovery was forecast during the year, and wages and benefits generally kept pace with inflation. Per capita income was estimated at \$1,050 in 2002, a decrease since independence.

The Government generally respected the human rights of its citizens; however, there were problems in some areas, including poor prison conditions, arrests without warrants, an extremely slow judicial process, and violence and discrimination against women.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Constitutional provisions prohibit such practices, and there were no reports that government officials employed torture. In September, the local press reported allegations by a 19-year-old woman that four police officers physically and verbally abused her during questioning at a police station.

Prison conditions were poor. Approximately 30 prisoners were held in the dilapidated central prison in Port Vila; security at this facility was poor. Inmates were treated humanely to the extent allowed, given the meager resources of the prison system. According to press reports, five prisoners who escaped from the Luganville prison in September and later were recaptured claimed that they had tried to escape because of ill treatment. They alleged that the prison authorities gave them insufficient food and denied them toilet privileges; the authorities denied the allegations.

The sole female prisoner was held at the barracks for female police officers. Pre-trial detainees usually were held in the police lockup rather than the prison.

During the year, the government Ombudsman released a report recommending disciplinary action in the case of a number of prison officers, stating that they had borrowed money from a prison fund set up to assist inmates with such needs as medical expenses and had failed to repay the funds.

The Government permitted prison visits by independent human rights observers.

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

The Commissioner of Police heads the police force of approximately 600 officers, including approximately 200 members of the VMF, a paramilitary unit with responsibility for responding to both internal and external security threats or other situations requiring the use of force. The police generally were considered effective. Corruption and impunity were not major problems; however, there were some instances of corruption, and there have been some instances in which police have acted without proper authorization at the behest of politicians. During the year, the Police Commissioner suspended some officers for misconduct.

The constitutional provision that suspects must be informed of the charges against them generally was observed in practice. A warrant issued by a court is required for an arrest; however, police made a small number of arrests without warrants during the year. A system of bail operated effectively; however, some persons not granted bail spent lengthy periods in pretrial detention due to judicial inefficiency (see Section 1.e.). Detainees were allowed prompt access to counsel.

The Constitution does not prohibit forced exile, but the Government did not employ the practice.

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

Magistrates' courts deal with most routine legal matters. There is a Supreme Court; however, an Appeals Court is the highest national court and hears appeals from the Supreme Court. The Appeals Court has three judges, two appointed by the President and one chosen from among the Supreme Court judges of other South Pacific nations. Judges cannot be removed without cause.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. However, the judiciary was relatively weak and inefficient, and some defendants spent extended periods in pretrial detention as a result. The judicial system is based on British law. The courts uphold constitutional provisions for a fair public trial, a presumption of innocence until guilt is proven, a prohibition against double jeopardy, a right of judicial determination of the validity of arrest or detention, and a right of appeal to a higher court.

Judges, prosecutors, and the police complained about large case backlogs due to a lack of resources and limited numbers of qualified judges and prosecutors. Years can pass before a case is brought to trial.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The Constitution or the law prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

The Government controls much of the country's media, including a weekly newspaper, one AM and one FM radio station, and a limited-service television station that broadcast only to the capital of Port Vila. The television station provided English and French news service three times weekly. There was one independent daily newspaper, a privately owned semiweekly newspaper, and another weekly newspaper published by a political party. During the year, most international correspondents, government-owned media, and the independent press reported criticisms of political leaders freely and apparently without hindrance. However, at times, some individual politicians and their supporters have threatened the media, although with no apparent effect on press freedom. In 2002, a politician's supporters invaded the offices of the independent semiweekly newspaper after the newspaper published an article on political corruption and cronyism. During the year, supporters of the Vanuatu Maritime Authority (VMA) Chairman assaulted the publisher of the independent daily newspaper after the newspaper published articles critical of the VMA.

The Government did not limit access to the Internet; however, computers and Internet access were out of reach for most citizens in the subsistence economy.

The Government did not restrict academic freedom.

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

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Missionaries of various Christian denominations worked without restriction. The Government provided some financial help for the construction of churches for Vanuatu Christian Council members, provided grants to church-operated schools, and paid teachers' salaries at church-operated schools in existence since the country's independence in 1980. These benefits were not available to non-Christian religious organizations. Government schools also scheduled time each week for religious education conducted by representatives of Council churches. Students whose parents did not wish them to attend the class were excused. However, non-Christian religions were not permitted to give religious instruction in the public schools.

In 1995, in response to concerns expressed by some established churches regarding the activities of new missionary groups, such as the Holiness Fellowship, Jeho-

vah's Witnesses, and the Church of Jesus Christ of Latter-Day Saints, Parliament passed a Religious Bodies Act that required religious organizations to register with the Government. However, the President never signed the act, and it never has been enforced. While there has been no effort to repeal the act, it was not regarded as inhibiting religious practice. A few churches registered with the Government voluntarily, and a few church representatives believed that the Religious Bodies Act had a chilling effect on new missionary activity.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice. Although the law does not include provisions for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, there were no reports of the forced return of persons to a country where they feared persecution. The Government has not formulated a policy regarding refugees or asylum. There were no refugee or asylum cases reported during the year. The Government has no association with the office of the U.N. High Commissioner for Refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Parliamentary elections are held every 4 years. The 52-member Parliament elects the Prime Minister as the Head of Government and the President, who is the Head of State. The President's powers are largely ceremonial except when appointing judges and acting on the advice of the Council of Ministers. Parliamentary majorities have been unstable, with frequent motions for votes of no confidence in the government.

National elections held in April 2002 were considered generally free and fair. A total of 256 candidates contested the 52 parliamentary seats. Voter turnout was 63.5 percent. Incumbent Prime Minister Edward Natapei of the Vanua'aku Party assembled a coalition parliamentary majority and formed the Government.

Traditional attitudes regarding male dominance and customary familial roles hampered women's participation in economic and political life. There were no women in the previous Parliament; however, voters elected two women in the last general election. There were no women in the Cabinet.

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

There are no restrictions on the formation of local human rights organizations. Some nongovernmental organizations (NGOs), such as the National Council of Women and the Family Health Association, included human rights education as part of their programs. A number of domestic and international human rights groups, such as Transparency International, operated without government restriction, investigating and publishing their findings on human rights cases. Government officials tolerated their views.

There is a government Ombudsman, who is appointed to a 5-year term by the President in consultation with other political leaders. In 1998, Parliament passed an Ombudsman's Act in the wake of parliamentary anger over the previous Ombudsman's vigorous investigations of official corruption. Among other provisions, the 1998 act requires that the Public Service Commission, not the Ombudsman, appoint members of the Ombudsman's staff and authorizes the presence of legal counsel during interviews with the Ombudsman.

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

The Constitution prohibits discrimination on the basis of race, place of origin, religious or traditional beliefs, political opinions, language, or sex; however, women remained victims of discrimination in the tradition-based society.

Women.—Violence against women, particularly wife beating, was common, although no accurate statistics exist. There are no specific laws against domestic violence; courts occasionally prosecuted offenders using common law assault as a basis for prosecution. However, most cases of violence against women, including rape, went unreported because women, particularly in rural areas, were ignorant of their rights or feared further abuse. Spousal rape is not a crime, and police frequently were reluctant to intervene in what were considered domestic matters. There were no government programs to address domestic violence, and media attention to the abuse was limited.

Prostitution is illegal and was not regarded as a serious problem. Although there is no law against sex tourism, none has been reported. Sexual harassment is not illegal and was a problem. However, it was not a priority for the police and judiciary.

While women have equal rights under the law, they are only slowly emerging from a traditional culture characterized by male dominance, a general reluctance to educate women, and a widespread belief that women should devote themselves primarily to childbearing. In 2000, a disproportionate number of women's positions were abolished during downsizing of the public service sector. In 2000, as part of the Government's reform program, policies were drafted to guide the Department of Home Affairs in protecting and furthering the rights of women; however, these have not been implemented. The majority of women entered into marriage through "bride-price payment," a practice that has encouraged men to view women as property. Women also were barred by tradition from land ownership. Many female leaders viewed village chiefs as major obstacles to social, political, and economic rights for women. Women interested in running for public office received encouragement and help from the nongovernmental organization (NGO) Vanuatu Women in Politics.

Children.—Access to education was limited, and school attendance was not compulsory. Few children advanced beyond elementary school. Boys tended to receive more education than girls. Although attendance rates were similar in the early primary grades (approximately 79 percent for boys and 78 percent for girls), fewer girls advanced to the higher grades. A significant portion of the population, perhaps as high as 50 percent, was functionally illiterate. Medical services were free, and there was a program of immunization; however, the Government had few resources for medical care, particularly in outlying provinces where there were no hospitals. Child abuse was not extensive; however, the Government did little to combat the problem. NGOs and law enforcement agencies reported increased complaints of incest and rape of children in recent years but no statistics were available. Children generally were protected within the traditional extended family system. Members of the extended family, particularly paternal uncles, played an active role in a child's development. As a result, virtually no children were homeless or abandoned.

Persons with Disabilities.—There was no governmental or national policy on persons with disabilities and no legislation mandating access to buildings for them. Their protection and care is left to the traditional extended family and to voluntary NGOs. Due to high rates of unemployment, there were few jobs available for persons with disabilities. Persons with mental illness generally did not receive specialized care; they usually were attended by members of their extended families.

National/Racial/Ethnic Minorities.—Most of the population is made up of Melanesians. Small minorities of Chinese, Fijians, Vietnamese, Tongans, and Europeans generally were concentrated in two towns and on a few plantations. Most of the land belongs to indigenous tribes and cannot be sold, although it is sometimes leased to others. However, within the limits of this system of land tenure, there were no reports of discrimination against noncitizens. There was no evidence of ethnic discrimination in the provision of the limited basic services that the Government provided.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers with the right to organize and join unions, and workers exercised this right in practice. Approximately 25,000 persons participated in the formal economy as wage earners. Combined union membership in the private and public sectors was approximately 1,000. All five existing trade unions are independent of the Government. They are grouped under an umbrella organization, the Vanuatu Council of Trade Unions (VCTU). There are no categories of workers who are not permitted to join unions. The high percentage of the population still engaged in subsistence agriculture and fishing precluded extensive union activity. Unions may not affiliate with international labor federations without government permission. The VCTU is a member of the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively.—Unions exercise the right to organize and bargain collectively. They negotiate wages and conditions directly with management. If the two sides cannot agree, the matter is referred to a three-member arbitration board appointed by the Minister of Home Affairs. The board consists of one representative from organized labor, one from management, and the senior magistrate of the Magistrate's Court. While a dispute is before the board, labor may not strike and management may not dismiss union employees. However, unions and management generally reached agreement on wages without referring the matter to

arbitration. Complaints of anti-union discrimination are referred to the Commissioner of Labor; however, none were reported during the year. While the law does not require union recognition, it prohibits anti-union discrimination once a union is recognized. The law prohibits retaliation if a strike is legal. In the case of private-sector employees, violations would be referred to the Labor Department for conciliation and arbitration. In the public sector, the Public Service Commission would handle violations. Unions are required by law to give 30 days' notice of intent to strike and to provide a list of the names of potential strikers. There was no significant strike activity during the year.

There are no export processing zones.

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

d. Status of Child Labor Practices and Minimum Age for Employment.—The law prohibits children under 12 years of age from working outside of family-owned agricultural production, where many children assisted their parents. The employment of children from 12 to 18 years of age was restricted by occupational category and conditions of labor, including employment in the shipping industry and nighttime employment. The Labor Department effectively enforced these laws. The country has not ratified International Labor Organization Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work.—A legislated minimum wage was enforced effectively by the Labor Department. Since 1995, it has been a flat rate of approximately \$143 (16,000 vatu) per month for both urban and rural workers. The minimum wage did not provide a decent standard of living for an urban worker and family. However, most families were not dependent solely on wages for their livelihood, supplementing incomes through subsistence farming. Various laws regulated benefits such as sick leave, annual vacations, and other conditions of employment, such as a 44-hour maximum workweek that included at least one 24-hour rest period. The Employment Act, enforced by the Labor Department, includes provisions for safety standards. However, the safety and health law was inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing, and the single inspector attached to the Labor Department could not enforce the law fully. Workers have the right to remove themselves from dangerous work situations without jeopardy to their continued employment.

There were few foreign workers. Those present in the country were primarily managers, professionals, and entrepreneurs.

f. Trafficking in Persons.—The Constitution and the law do not prohibit specifically trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

VIETNAM

Vietnam is a one-party state, ruled and controlled by the Communist Party of Vietnam (CPV). The CPV's constitutionally mandated leading role and the occupancy of all senior government positions by party members ensured the primacy of Politburo guidelines and enabled the party to set the broad parameters of national policy. In recent years, the CPV gradually reduced its formal involvement in government operations and allowed the Government to exercise significant discretion in implementing policy. The National Assembly remained subject to CPV direction; however, the Government continued to strengthen the capacity of the 498-member National Assembly and to reform the bureaucracy. The National Assembly members were chosen in May 2002 elections in which candidates were vetted by the CPV's Vietnam Fatherland Front (VFF), an umbrella group for the country's mass organizations. Approximately 90 percent of elected delegates were CPV members. However, the National Assembly continued to play an increasingly independent role as a forum for local and provincial concerns and as a critic of local and national corruption and inefficiency and made progress in improving transparency in the legal and regulatory systems. The judiciary was subject to the influence of the CPV and the Government.

Internal security is primarily the responsibility of the Ministry of Public Security (MPS); however, in some remote areas, the military forces are still the primary government agency, providing infrastructure and all public safety functions, including maintaining public order in the event of civil unrest. Since 2001, the military has played a large role in the Central Highlands by enforcing restrictions on gatherings, detaining individuals, and enforcing travel restrictions. The MPS controls the police,

a special national security investigative agency, and other units that maintain internal security. The MPS enforces laws and regulations that often significantly restrict individual liberties and violate other human rights. It also maintained a system of household registration and block wardens to monitor the population, concentrating on those suspected of engaging, or being likely to engage in, unauthorized political activities; however, this system has become less obvious and pervasive in its intrusion into most citizens' daily lives. While the civilian authorities generally maintained effective control of the security forces, there were reports that elements of the security forces acted independent of government authority. Members of the public security forces committed numerous human rights abuses.

The country of approximately 80 million persons is undergoing transition from a wholly central planned economy to a "socialist-oriented market economy." During the year, the Gross Domestic Product growth rate was approximately 7 percent and the inflation rate approximately 2.2 percent at year's end. The agriculture, forestry, and fishery sectors employed 62.5 percent of the labor force and accounted for 23 percent of total economic output. Industry and construction contributed 38.5 percent of total economic output, while services accounted for 38.5 percent. During the year, official development assistance disbursements exceeded \$1.4 billion. In the last 10 years, overall poverty levels decreased significantly; as of 2002, approximately 30 percent of the population lived below the poverty line. Particularly in Ho Chi Minh City and Hanoi, economic reforms have raised the standard of living and reduced CPV and government control over, and intrusion into, citizens' daily lives; however, many citizens in isolated rural areas, particularly members of ethnic minorities in the Northwest Highlands, Central Highlands, and the central coastal regions continued to live in extreme poverty. There was a growing income and development gap between urban and rural areas and within urban areas. Unemployment and underemployment remained significant problems. The Government made significant steps in improving legal transparency for businesses. In December 2002, the National Assembly amended the Law on the Promulgation of Legal Normative Documents, which required most legal documents be published in the Official Gazette. On July 1, to meet this requirement, the Official Gazette became a daily publication, from six issues per month previously.

The Government's human rights record remained poor, and it continued to commit serious abuses. The Government continued to deny the right of citizens to change their government. Police sometimes beat suspects during arrests, detention, and interrogation. Several sources also reported that security forces detained, beat, and were responsible for the disappearances of persons during the year. Incidents of arbitrary detention of citizens, including detention for peaceful expression of political and religious views, continued. With some exceptions, prison conditions remained harsh, particularly in some isolated provinces, and some persons reportedly died as a result of abuse in custody. Prisons usually required inmates to work for little compensation and no wages. The judiciary was not independent, and the Government denied some citizens the right to fair and expeditious trials. The Government continued to hold a number of political prisoners. The Government restricted citizens' privacy rights, although the trend toward reduced government interference in the daily lives of most citizens continued. The Government significantly restricted freedom of speech, freedom of the press, freedom of assembly, and freedom of association. The Government continued its longstanding policy of not tolerating most types of public dissent and stepped up efforts to control dissent on the Internet. Security forces continued to enforce restrictions on public gatherings and travel in some parts of the country, primarily in the Central Highlands and the Northwest Highlands. The Government allowed elected officials and ordinary citizens in approved forums somewhat greater freedom of expression and freedom of assembly to express grievances. The Government prohibited independent political, labor, and social organizations; such organizations existed only under the control of the VFF. The Government restricted freedom of religion and operation of religious organizations other than those approved by the State. In particular, Buddhists, Hoa Hao, and Protestants active in unregistered organizations faced harassment as well as possible detention by authorities. The Government imposed some limits on freedom of movement of particular individuals whom it deemed threatening to its rule. Access to the Central Highlands by foreign observers improved from 2002, but visitors to the area were generally monitored and often accompanied by security officials. The Government continued to restrict significantly civil liberties on grounds of national security and societal stability. The CPV continued its efforts to strengthen the mechanism for citizens to petition the Government and for victims of injustice to obtain compensation. The Government did not permit human rights organizations to form or operate. Violence and societal discrimination against women remained problems. Child prostitution was a problem. Government and societal discrimination

against some ethnic minorities continued to be problems. The Government restricted some core worker rights, such as freedom of association, although the Government cooperated with the International Labor Organization (ILO) and international donors to improve implementation of the Labor Law. There were reports that children worked in exploitative situations. The Government recognized child labor as a problem and attempted to address it. Trafficking in women and children for the purpose of prostitution within the country and abroad continued to be a serious problem, and there were reports of the trafficking of women to China and Taiwan for arranged and forced marriages.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no political killings during the year; however, there were reports of killings by security forces. In July, police in Xin Man District, Ha Giang Province, reportedly beat to death then threw into a stream Vang Seo Giao, a former CPV member who had converted to Christianity, for refusing to renounce his Protestant faith. Police also reportedly beat to death another Protestant, Mua Say So, for criticizing the Government over the alleged killing of his brother, Mua Bua Seng. In September, police in Nam Dinh Province beat to death Tran Minh Duc who had been detained following a domestic dispute. There were no reports of action taken against officials involved in any of these killings. During the year, police in Quang Nam Province reportedly tortured Nguyen Ngoc Chau to death while questioning him on murder charges. The Supreme People's Procuracy requested prosecution for the three police officers implicated in the killing; the case was pending at year's end.

Two police officers in Vinh Phuc Province charged in the January 2002 torture death of Khong Van Thoi still were awaiting trial at year's end. Two prison guards charged in the September 2002 killing of a prison inmate in Hai Duong Province, Pham Van Dung, also were awaiting trial for manslaughter at year's end.

b. Disappearance.—There were credible reports that some members of ethnic minorities in the Central Highlands and Northwest Highlands who were either arrested or detained did not return to their families.

In August, the People's Court of Ho Chi Minh City notified the family of Pham Van Tuong, a former Unified Buddhist Church of Vietnam (UBCV) monk known as Thich Tri Luc until he secularized in 1997, that he was imprisoned in Ho Chi Minh City awaiting trial on unspecified charges. In July 2002, Tuong reportedly was forced to return to the country from Cambodia, where he had been granted UNHCR refugee status. The court postponed his trial, originally scheduled for August 1; his family was not allowed to visit him, nor had a new trial date been set by year's end.

In August 2002, in M'Drak district, Dak Lak Province, police confronted 120 villagers attempting to prevent the detention of an ethnic minority Protestant pastor, Y Su Nie, and his two adult sons. After a confused altercation, the police arrested all 120 persons. Most of those arrested were released after a few days, but 20 to 30 of the villagers did not return to their villages. Police reportedly did not acknowledge detaining them. In October 2002, police reported that they had detained Y Su Nie and one other person.

Also in August 2002, in Dak Lak, police detained 240 persons at a house church meeting. Most of the detained were released within a few days, but 47 persons allegedly did not return to their families. Police did not admit to having detained them.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits physical abuse; however, police sometimes beat suspects while in the process of arresting them or while they were in custody. Police reportedly beat to death at least two suspects in detention in 2002 (see Section 1.a.).

There was no known action taken against two guards who reportedly beat and seriously injured an inmate at a prison in Hai Duong Province in August 2002.

Prison conditions reportedly were often harsh but generally did not threaten the lives of prisoners. During the year, as in 2002, visits by select diplomatic observers revealed Spartan but generally acceptable conditions in at least two prisons.

Men and women were housed separately in prisons. Juveniles were housed separately from adult populations. Overcrowding, insufficient diet, and poor sanitation remained serious problems in many prisons.

Prisoners, including those held for political reasons, were reportedly moved arbitrarily to solitary confinement, including deprivation of reading and writing materials, for periods of up to several months. Unlike in the previous year, there were no reports that some inmates were punished with harsh solitary confinement conditions during the year.

Pretrial detainees were generally held separately from convicted prisoners and were denied visitation rights. Consular officers were granted access to their citizen detainees but usually after a 4 to 8 week delay. Unlike in the previous year, there were no reports that conditions for pretrial detainees were harsher than conditions for those who were convicted and sentenced; however, pretrial detainees were sometimes not permitted access by lawyers and family members. Most prisoners had access to basic health care. Some political and other prisoners were denied visitation rights. Prisoners generally were required to work but received no wages (see Section 6.c.). Prisoners sentenced to hard labor complained that their diet and medical care were insufficient to sustain good health, especially in remote, disease-ridden areas. Although political and religious prisoners often were held under harsh conditions and with limited medical care in remote prisons, such as Z30a at Xuan Loc in an isolated part of Dong Nai Province, there was no evidence to suggest their conditions were significantly different than those for the regular prison population.

During the year, as in 2002, the Government permitted selected diplomatic observers to visit prisons; however, the Government did not allow the International Committee of the Red Cross (ICRC) to visit prisoners.

d. Arbitrary Arrest, Detention, or Exile.—The law prohibits arbitrary arrest and detention; however, the Government continued to arrest and detain citizens arbitrarily. Some persons were arrested and detained for the peaceful expression of their political and religious views. In addition, several persons who were arrested or detained in 2002 reportedly did not return to their families (see Section 1.b.). The Criminal Code provides for various rights of detainees, including the right of the accused to have a lawyer present during interrogation; however, in practice the authorities sometimes ignored these legal safeguards. Moreover, a long-standing directive on administrative probation gives security officials broad powers to subject individuals to a form of house arrest, if they believe that a suspect is a threat to “national security” or even on less serious grounds, without trial.

The Criminal Code places a 12-month time limit on investigative detention; however, the Government sometimes detained persons for more than 1 year in that status. There is no legal limit on the time that a judge’s panel (a body consisting of at least one judge and two lay assessors) has to rule on a case (see Section 1.e.); however, there is a 3-month limit for trying, dismissing, or returning a case for re-investigation once the 12-month investigative period is ended. Prior to being formally charged, a detainee has a statutory right to notify family members, and, in most cases, police informed the family of the detainee’s whereabouts. A detainee may contact a lawyer, prior to being charged, if permitted by the head of the investigating office. Following a formal charge, the detainee has a statutory right to contact an attorney; however, it was not clear that this right generally was respected in practice.

The Supreme People’s Procuracy (the office which investigates cases and initiates public prosecutions) issues arrest warrants, generally at the request of police; however, police may make an arrest without a warrant on the basis of a complaint filed by any party alleging the commission of a crime. In such cases, the Procuracy must issue retroactive arrest warrants. Unless specifically authorized by an investigator, the MPS usually prohibited contact between a detainee and his lawyer as long as the procurator’s office was investigating a case, which may last up to 1 year and may not entail any formal charges. Likewise, family members may visit a detainee only with the permission of the investigator. Time spent in pretrial detention usually counts toward time served upon conviction and sentencing.

Courts may sentence persons to administrative detention for a period of up to 5 years after release from prison. These provisions were enforced unevenly. Government officials used administrative probation to place persons under house arrest without trial for up to 2 years (see Section 2.d.). For example, at least three UBCV monks were sentenced to 2 years’ house arrest in October and remained under house arrest at year’s end.

Persons arrested for the peaceful expression of views were subject to charge under several provisions in the Criminal Code that outlaw acts against the State. On March 17, police detained democracy activist Dr. Nguyen Dan Que for providing information critical of the country to foreign journalists (see Section 2.a.). On June 18, a court in Hanoi sentenced Dr. Pham Hong Son to 13 years’ imprisonment and 3 years’ house arrest (see Section 2.a.). His sentence was reduced on appeal to 5 years’ imprisonment. On December 31, Nguyen Vu Binh, a journalist who had been arrested in September 2002, was convicted of espionage by a court in Hanoi after he had criticized the country’s border agreement with China and sent testimony on human rights issues in the country to a foreign government. Binh was sentenced to 7 years’ imprisonment and 3 years’ house arrest. Diplomats and foreign journalists were refused permission to attend either of the two trials.

Police picked up street children in Hanoi and Ho Chi Minh City and held them in juvenile detention facilities in advance of the December Southeast Asia Games.

In 2002, activist Nguyen Khac Toan was sentenced to 12 years' imprisonment for disseminating articles critical of the Government on the Internet.

In December 2002, police detained democracy activists Pham Que Duong and Tran Van Khue (see Section 2.a.); at year's end, they had not yet been tried. In addition, up to 19 Hmong Protestant leaders, including Mua A Ho, Cu Van Long, and Sua Song Vu, may still be detained. It was unknown whether several persons reportedly detained in previous years have been tried, including: Vo Tan Sau, Phan Thi Tiem, and Tran Thi Duyen, Le Huu Hoa, Ma Van Chinh, and Lu Seo Dieu.

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

e. Denial of Fair Public Trial.—The Constitution provides for the independence of judges and lay assessors; however, in practice, the CPV controls the courts closely at all levels, selecting judges, at least in part, for their political reliability. Constitutional safeguards were significantly lacking. The CPV had strong influence over high profile cases and cases in which a person was charged with challenging or harming the CPV or the State. During the year, CPV and government officials likely exerted influence over court decisions by making clear their wishes to both the lay assessors and the judges who sat on a panel together to decide cases. The National Assembly votes for judicial nominees presented by the President for the Supreme People's Court (SPC) President and Supreme People's Procuracy. The National Assembly also controls the judiciary's budget, including judges' salaries, just as it controls the budgets and salaries of all other parts of the Government. Provincial and district governments disburse judges' salaries at their respective levels, just as they disburse the salaries of other local officials. The State President appoints all other judges, not the President of the SPC. This power is granted in the Constitution. In September 2002, the Government transferred local courts from the Ministry of Justice to the SPC, in an effort to increase judicial independence. There was no evidence that this change had any effect on the independence of the courts.

The system of appointing judges and lay assessors also reflected the lack of judicial independence. Court of First Instance Panels at district and provincial levels include judges and lay assessors, but provincial appeals courts and the Supreme People's Court are composed of judges only. People's Councils appoint lay assessors at the district and provincial levels. Lay assessors are required to have "high moral standards," but legal training is not necessary. District and provincial People's Councils appoint the lay assessors at the lower levels. The VFF must approve candidates for SPC lay assessors. The SPC President appoints the District People's Court and Provincial People's Court judges to 5-year terms. The SPC President also appoints SPC judges from candidates approved by a judicial selection panel under the influence of the CPV. The CPV's influence over the courts was amplified both because the People's Councils appointed the lay assessors, and because the judges served limited terms and were subject to review.

The judiciary consists of the Supreme People's Court; the district and provincial People's Courts; military tribunals; administrative, economic, and labor courts; and other tribunals established by law. Each district throughout the country has a district People's Court, which serves as the court of first instance for most domestic, civil, and criminal cases. Each province has a provincial People's Court, which serves as the appellate forum for district court cases, as well as courts of first instance for other cases. The SPC is the highest court of appeal and review. The SPC reports to the National Assembly. Administrative courts deal with complaints by citizens about official abuse and corruption.

Military tribunals operate under the same rules as other courts, but the Ministry of Defense (MOD) provides their funding. Tribunal judges and assessors are military personnel, chosen jointly by the SPC and the MOD but supervised by the SPC. The MOD is represented on the judicial selection panels, and the head of the military tribunal system is the deputy head of the SPC. A 2002 law gives military courts jurisdiction over all criminal cases involving military entities, including military-owned enterprises. The military has the option of using the administrative, economic, or labor courts for civil cases.

The VFF does not have any legal standing to settle legal issues itself. In addition, the CPV and the Government set up special committees to help resolve local disputes.

The Supreme People's Procuracy brings charges against the accused and serves as prosecutor during trials. A judging council, made up of a judge and one or more lay assessors, determines guilt or innocence and also passes sentence. Although the Constitution provides that citizens are innocent until proven guilty, a foreign legal expert who analyzed the court system during 2000 found that more than 95 percent

of the persons who were charged with a crime were convicted. Some lawyers complained that judges generally presumed guilt.

There was a shortage of trained lawyers and judges and no independent bar association. At the Supreme Court level, there was a 20 percent shortage of qualified judges in 2002. According to a U.N. official, 30 to 40 percent more judges were needed at the provincial level. Low salaries hindered the development of a trained judiciary. The few judges who had formal legal training often studied abroad in countries with socialist legal traditions. Young educated judges usually had little influence within the system.

The Government conducted training programs to address the problem of inadequately trained judges and other court officials. A number of foreign governments and the U.N. Development Program (UNDP) provided assistance to strengthen the rule of law and to develop a more effective judiciary; however, the lack of openness in the criminal judicial process and the continuing lack of independence of the judiciary undermined these efforts.

Although the Constitution provides for legal counsel for persons accused of criminal offenses, the scarcity of lawyers made this provision impossible to implement. With few qualified attorneys, the procurator often handled both the prosecution and the defense, resulting in legal counsel that frequently provided little help to the defendant. Consistent with its Marxist-Leninist political system, the Government required that the Bar Association be a member of the VFF. At the provincial level, the Bar Association was subordinate to representatives of the central Government, the VFF, the provincial People's Council, and the People's Committee.

Trials generally were open to the public; however, judicial authorities closed trials or strictly limited attendance in sensitive cases. Defendants have the right to be present at their trial and to have a lawyer. The defendant or the defense lawyer have the right to cross-examine witnesses; however, there were credible reports that defendants were not allowed access to government evidence in advance of the trial, to cross-examine witnesses, or to challenge statements. Lawyers reported that they often had little time before trials to examine evidence to be presented against their clients. Those who were convicted had the right to appeal. The courts did not publish their proceedings.

The Government continued to imprison persons for the peaceful expression of dissenting religious and political views. There were no reliable estimates of the number of political prisoners, because the Government usually did not publicize such arrests, rejected the concept of political and religious prisoners, and sometimes conducted closed trials and sentencing sessions. There were 14 prisoners known to be held for political reasons and 21 prisoners held for religious reasons. Other sources estimated that numbers could be much higher. Among those believed to be detained or imprisoned were political activists Dr. Nguyen Dan Que, Col. Pham Que Duong, Tran Van Khue, Tran Dung Tien, Pham Hong Son, Nguyen Vu Binh, Nguyen Dinh Huy (who reportedly was suffering from Parkinson's disease), Le Chi Quang, Nguyen Khac Toan, journalist Pham Thai, and religious persons Father Nguyen Van Ly, Ngo Van Thong, Pham Minh Tri, Le Minh Triet, Nguyen Chau Lang, Truong Van Duc, Bui Van Hue, Dinh Troi, Pham Van Tuong, Ho Van Trong, Ha Hai, Thich Thien Minh, Nguyen Thien Phung, Hoang Trong Dung, Nguyen Van Lia, Ly A Hu, and Ly A Cho.

The Government amnestied at least 750 prisoners during the year, but no political or religious prisoners were known to be among them; however, the Government reduced the sentences of at least 4 political prisoners during the year.

The Government claimed that it did not hold any political or religious prisoners and that persons described as political or religious prisoners were convicted of violating national security laws or general criminal laws. In February, local authorities released or commuted the sentences of 246 prisoners from Ho Chi Minh City's Chi Hoa and Bo La prisons for good behavior in advance of the Lunar New Year holiday. On the occasion of the September 2 National Day, local authorities amnestied an additional 544 prisoners in Hanoi, Haiphong, and Ho Chi Minh City, releasing 120 before the end of their prison terms and reducing the sentences of the remainder by 2 to 20 months. The Ministry of Foreign Affairs reported that none of the persons amnestied were listed as persons of concern by foreign governments or nongovernmental organizations (NGOs).

The Government did not allow access by humanitarian organizations to political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence.—The Constitution provides for the right to privacy of home and correspondence; however, the Government restricted this right significantly. Household registration and block warden systems existed for the surveillance of all citizens but were used with less vigor and thoroughness than in the past and usually did not intrude on most citi-

zens. The authorities largely focused on persons whom they regarded as having views critical of the Government or whom they suspected of involvement in unauthorized political or religious activities. Citizens formally are required to register with police when they leave home, remain in another location overnight, or when they change their residence, although this usually was honored in the breach; however, the Government appeared to have enforced these requirements in some districts of the Central Highlands and northwestern provinces. On August 18, police used that requirement to enter an illegal Protestant house church in Ho Chi Minh City, leading to an altercation that resulted in the brief detention of two church leaders. Most citizens who wished to move around the country to seek work or to visit family and friends were able to do so without being monitored, and most families who sought employment moved to other locations without prior government permission (see Section 2.d.). There continued to be reports that some "spontaneous migrant" families were unable to obtain household registration or residence permits in their new locations, which created legal and administrative problems. In urban areas, most citizens were free to maintain contact and to work with foreigners. In theory, the Government required that citizens who work for foreign organizations be screened and hired through a government service bureau. Laws governing foreign business enterprises are more lenient. In practice, many foreign organizations, including diplomatic missions, and enterprises hired their own personnel and only "registered" them with the service bureau or employment bureau.

Forced entry into homes is not permitted without orders from the Procuracy; however, in practice, security forces seldom followed this requirement but rather asked for permission to enter, with an implied threat to cooperate. In some cases, individuals refused to cooperate with such "requests." In urban areas, police generally left when faced with non-compliance. In one case in early October, security officers entered without permission a house in Gia Lai Province where a foreign diplomat was conducting a consular interview. The security officers harassed the occupants of the residence and later blocked the consular officer from entering residences in Dak Lak Province.

The Government opened and censored targeted persons' mail, confiscated packages and letters, and monitored telephone conversations, electronic mail, and facsimile transmissions. The Government cut the telephone lines of some targeted individuals and also repeatedly interrupted their cellular phone service. This practice appeared to be sporadic and was not applied consistently. The Government monitored e-mail, searched for sensitive key words, and regulated Internet content (see Section 2.a.).

The Government did not exercise forced resettlement; however, there were credible reports that the Government forced ethnic minority Protestants in the northwestern and Central Highlands provinces to leave their homes without providing them with alternative places to live. The Government also resettled some citizens to make way for infrastructure projects. By law, citizens were to be compensated in such cases, but there were widespread complaints, including from the National Assembly, that compensation was not fair or was delayed. The Government has acknowledged problems in past resettlement programs.

The Government enforced universal male conscription. Medical waivers were available, and students generally received deferments, as did others in special cases. Individuals who received deferments rarely were drafted. It was unknown whether there were differences in conscription rates between ethnic groups.

Citizens' membership in mass organizations remained voluntary but often was important for career advancement. Membership in the CPV remained an aid to advancement in the Government and in state companies and was vital for promotion to senior levels of the Government. At the same time, diversification of the economy made membership in CPV-controlled mass organizations and the CPV less essential to financial and social advancement. Opposition political parties were not permitted.

The Government continued to implement a family planning policy that urges all families to have no more than two children; this policy emphasized exhortation rather than coercion. The Government can deny promotions and salary increases to government employees with more than two children. Fines were not permitted under revised family planning regulations adopted during the year; officials claimed that fines were never a formal part of the family planning process.

In 2001, relatives of some individuals holding political viewpoints at variance with the Government lost their jobs with state-owned enterprises; however, most, if not all, found equivalent or better positions with private sector employers. No similar cases were known to have taken place in 2002 or during the year.

The Government interfered with distribution of foreign periodicals and access to satellite television (see Section 2.a.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and freedom of the press; however, the Government significantly restricted these freedoms in practice, particularly with respect to political and religious speech. Both the Constitution and the Criminal Code include broad national security and anti-defamation provisions that the Government used to restrict severely such freedoms. The CPV, the Government, and the party-controlled mass organizations controlled all print and electronic media. The Government exercised oversight through the Ministry of Culture and Information, supplemented by pervasive party guidance and national security legislation sufficiently broad to ensure effective self-censorship in the domestic media. During the year, the international NGO Reporters Without Borders claimed that Vietnam was among the 10 most repressive countries in the world regarding freedom of the press.

A press law required journalists to pay monetary damages to individuals or organizations harmed as a result of their reporting, even if the reports were true. Observers noted that this law limited the scope of investigative reporting. Several media outlets continued to test the limits of government press restriction by publishing articles that criticized actions by party and government officials; however, the freedom to criticize the CPV and its senior leadership remained restricted. Nonetheless, during the year, there were press reports about topics that generally were considered sensitive, such as the prosecution of high-ranking CPV officials in the trial of organized crime boss Nam Cam. The Government required officials to obtain approval from their ministry before providing any information to foreign journalists. Journalists must receive approval from their editorial offices before providing information.

The CPV and the Government tolerated public discussion on some subjects and permitted somewhat more criticism than in the past. The law allows citizens to complain openly about inefficient government, administrative procedures, corruption, and economic policy. Senior government and party leaders traveled to many provinces to try to resolve citizen complaints. However, on January 29, the Hanoi People's Court sentenced four persons to jail terms ranging from 24 to 42 months after they disseminated to all 61 provinces and the National Assembly letters denouncing local land clearance policies. On August 22, a court in Dong Nai Province sentenced four persons to prison terms of 30 to 42 months for inciting fellow farmers to voice complaints over provincial land use policies.

The Government continued to prohibit free speech that questioned the role of the CPV, criticized individual government leaders, promoted pluralism or multiparty democracy, or questioned the Government's policies on sensitive matters such as human rights or the border agreement with China. There continued to be an arbitrary line between what constituted private speech about sensitive matters, which the authorities would tolerate, and public speech in those areas that they would not tolerate. On March 17, police detained democracy activist Dr. Nguyen Dan Que on espionage charges for providing information to foreign journalists. At year's end, he remained in detention in Ho Chi Minh City, and his family was prohibited from visiting him. On June 18, a court in Hanoi sentenced Dr. Pham Hong Son to 13 years' imprisonment and 3 years' house arrest in a closed trial on espionage charges after he translated a number of English-language articles about democracy and posted them on the Internet. On August 26, an appeals court reduced the sentence to 5 years. In 2002, police repeatedly summoned democracy activist Nguyen Vu Binh, a former journalist, for questioning. He was under close police surveillance for several weeks thereafter before being summoned for questioning again and detained in 2002. On December 31, he was tried, convicted of "espionage," and sentenced to 7 years in prison and 3 years' administrative detention (see Section 1.d.). In 2001, biologist Ha Sy Phu, who was cleared on earlier charges of treason, was placed under administrative probation for writing articles calling for democracy. His administrative probation expired in March.

Since 2001, several democracy activists have had their telephone service disconnected. In 2002, before his December 2002 detention, retired Colonel Pham Que Duong was called in for questioning for several consecutive days and had his cell telephone service cut at least three times in 2002. In December 2002, police detained Duong in Ho Chi Minh City just after he concluded a visit to fellow activist Tran Van Khue. A day later, police came to Khue's house, detained him, and took away his computer and other materials. Khue and Duong had identified themselves as spokespersons for a number of other activists. Both Khue and Duong were in pre-trial detention at year's end. Before his arrest on March 18, Nguyen Dan Que continued to call for democracy and respect for human rights, but authorities interfered with his ability to communicate by cutting off his cellular telephone service intermittently, shutting off his land line, and restricting his access to the Internet and

e-mail for more than 2 years. Police monitored him closely and questioned him periodically until his March arrest. Que was in pretrial detention at year's end.

On July 17, the Government reduced by 5 years the cumulative 15-year sentences imposed on Catholic priest Thaddeus Nguyen Van Ly in 2001 for "damaging national unity." In 2001, Father Ly had submitted written testimony critical of the Government to the U.S. Commission on International Religious Freedom and frequently spoke out for political pluralism and complete religious freedom. On September 10, the Ho Chi Minh City People's Court sentenced Father Ly's niece, Nguyen Thi Hoa, and two nephews, Nguyen Truc Cuong and Nguyen Vu Viet, to sentences ranging from 3 to 5 years' imprisonment for communicating information on his activities to foreign journalists. On November 28, the Ho Chi Minh Court of Appeals reduced the sentences of the three siblings, resulting in their release for time served.

The Government restricted persons who belonged to unofficial religious groups from speaking publicly about their beliefs (see Section 2.c.).

Some persons who expressed alternative opinions on religious or political issues were not allowed to travel abroad (see Section 2.d.).

Published reports on high-level government corruption and mismanagement became more common in recent years. Local newspapers devoted extensive coverage to the trial of the Nam Cam organized crime gang, with links to three high-level government officials, two of whom were members of the CPV Central Committee before their expulsions in 2002. The Government restricted coverage when it deemed that the scandal was receiving too much publicity and revealing too many sensitive points. Many newspapers ignored the CPV's instructions not to report on the case, resulting in strong rebukes. During the year, the editor-in-chief of Tuoi Tre, who presided over the newspaper during reporting on the Nam Cam trial, was transferred to the newspaper's real estate management group.

In 2002, the Government criticized reporters for what it considered sensationalized reporting on a major fire in Ho Chi Minh City. In December 2002, the Ministry of Culture and Information revoked the press identity cards of four reporters. Three of the reporters, Tran Ngoc Tuan of Tien Phong magazine, Dang Thanh Hai of Thanh Nien newspaper, and Nguyen Minh Son of Nguoi Lao Dong newspaper, filed what the Government claimed were inaccurate reports about Danang police beating citizens to the point of severe injury. A fourth reporter, Bui Ngoc Cai of Gia Dinh Va Xa Hoi newspaper, reported that a police major general had said that the Government might punish ministerial level officials for corruption. All four journalists had their press cards returned to their employers in October.

In 2002, the Government unexpectedly blocked press access to the foreign-funded, scientific Conference on Environmental and Human Health Effects of Agent Orange in Hanoi. The Government did not allow foreign journalists to attend sessions and restricted domestic journalists to the opening and closing sessions. At year's end, nearly 1½ years later, the conference papers had not been translated or distributed.

The Government generally required religious publishing to be done through one government-owned religious publishing house; however, some religious groups were able to print their own materials or import materials, subject to government approval (see Section 2.c.).

Foreign language periodicals were widely available in cities; however, the Government occasionally censored articles about the country. The Government sometimes delayed availability of a foreign periodical, apparently because of articles on sensitive topics. The Government generally did not limit access to international radio, except to Radio Free Asia and the Far East Broadcasting Corporation, which it continued to jam.

Foreign journalists must be approved by the Foreign Ministry's Press Center and must be based in Hanoi. The number of foreign staff allowed to each foreign media organization was limited, and most local staff who worked for foreign media were provided by the Foreign Ministry. The Press Center monitored journalists' activities and decided on a case-by-case basis whether to approve their interview, photograph, film, or travel requests, all of which in principle must be submitted 5 days in advance. The Press Center refused several travel requests, particularly for travel to the Central Highlands, although it did allow two journalist groups to visit the Central Highlands during the year. By law, foreign journalists are required to address all of their questions to other government agencies through the Foreign Ministry, although it appeared that this often was not followed in practice. Foreign journalists generally received visas valid for 6 months. One journalist was unable to renew his visa during 2002, and two journalists received visas for shorter than usual terms in 2001. There were no such reports during the year.

In past years, the Government censored television footage and sometimes delayed export of footage by several days. During 2002 and this year, such censorship was

not known to have occurred, although regulations continued to allow the Government to screen such footage. The law limits access to satellite television to top officials, foreigners, luxury hotels, and the press; however, the law was not enforced uniformly, and an increasing number of persons in urban and some rural areas had access to censored television footage via home satellite equipment or cable. In 2002, following a visible increase in individual satellite dishes set up in conjunction with the World Cup soccer competition, the Government issued a new decree in an attempt to enforce this requirement more stringently; however, that decree appeared to go largely unenforced.

The Government censored art exhibits, music, and other cultural activities. However, the Government generally allowed artists broader latitude than in past years in choosing the themes for their works, although artists were not allowed to exhibit works of art that censors regarded as criticizing or ridiculing the Government or the CPV. Many artists received permission to exhibit their works abroad, receiving exit permits to attend the exhibits and export permits to send their works out of the country.

Foreign language editions of some banned books, such as Duong Thu Huong's *Memories of a Pure Spring*, were sold openly by street peddlers, and Bao Ninh's previously banned book, *Sorrow of War*, was available in bookstores in Vietnamese language editions. In one notable exception, the press launched a campaign to denounce well-known actor Don Duong for his roles in the films "Green Dragon" and "We Were Soldiers Once." The articles described the actor as a traitor and called for his arrest and detention. The Government also prevented actor Don Duong from traveling abroad for periods of time during the year (see Section 2.d.); however, it did eventually allow him and his family to emigrate to the United States.

The Government allowed access to the Internet through 6 Internet Access Providers (IXPs) and 13 Internet Service Providers (ISPs); however, all IXPs were required to be State-owned, or are joint-stock companies with the State as controlling shareholder. All IXPs leased Internet access through the country's largest access provider, Vietnam Data Communications (VDC). The Ministry of Post and Telematics reported that the country had 650,000 Internet subscribers and roughly 2,660,000 Internet users. The price of computers relative to the country's income level limited home use, but universities and approximately 4,000 cyber cafes allowed students and many other persons wider access to the Internet.

VDC was authorized by the Government to monitor the sites that subscribers access. The Government used firewalls to block sites it deemed politically or culturally inappropriate, including sites operated by exile groups abroad. The Government restricted access to the Radio Free Asia and Voice of America websites during the year. In 2002, the Government instructed cyber cafe owners to monitor their customers to discourage citizens from accessing sites containing anti-government material as well as pornography; however, such monitoring appeared uncommon.

In August 2002, the Government inspected a large number of Internet cafes to determine whether persons were accessing blacklisted sites. Also in August 2002, the Government closed a company that provided an online news service because it carried articles not allowed under the Press Law. In 2002, the Government required all owners of domestic web sites, including those operated by foreign entities, to register their sites with the Government and to submit their web site content to the Government for approval.

The Government restricted academic freedom, and foreign field researchers often were questioned and monitored. However, the Government permitted a more open flow of information within the country and into the country from abroad, including in the university system, than in previous years. Local librarians increasingly were being trained in professional skills and international standards such as the Dewey Decimal System that supported wider international library and information exchanges and research. Foreign academic professionals temporarily working in universities were allowed to discuss nonpolitical issues widely and freely in classes; however, government observers regularly attended classes taught by both foreigners and citizens. Foreign government informational materials of a non-political nature distributed to participants at a library conference in Hue were confiscated from participants by security officials. Some research institutions insisted that their faculty members receive permission to attend official professional programs on diplomatic premises or use diplomatic research facilities. Security officials frequently questioned those who regularly used diplomatic facilities concerning their relationship to foreign governments. Nevertheless, requests for materials from foreign research facilities increased. Academic publications usually reflected the views of the CPV and the Government.

b. Freedom of Peaceful Assembly and Association.—The right of assembly is restricted in law, and the Government restricted and monitored all forms of public

protest. Persons who wish to gather in a group are required to apply for a permit, which local authorities can issue or deny arbitrarily. In general, the Government did not permit demonstrations that could be seen as having a political purpose. Persons routinely gathered in informal groups without government interference; however, the Government restricted the right of some religious groups to gather in worship. The Government tried and sentenced some persons for protests over land use policies and expropriations (see Section 2.a.).

In February and March, there were numerous peaceful protests, mostly by students, organized across from a foreign embassy in Hanoi. Police maintained order but did not otherwise interfere or insist on permits.

On April 23, two men were sentenced to prison in Ho Chi Minh City for “creating social disorder” and destroying government property for inciting a dozen persons to attack a local site-clearance office in a dispute over land expropriation.

In October, a court in the Central Highlands Province of Dac Lak sentenced four ethnic minority persons arrested in connection to the 2001 unrest in the Central Highlands—Y Kuo Bya, Y He E Ban, Y Jon Enuol, and Y Bri Enuol—to prison terms of 13, 12, 11, and 10 years respectively.

In 2002 and during the year, there were a number of peaceful protests of up to 50 persons, mostly older rural women, over land use issues. The protests took place outside government and CPV office buildings, the Prime Minister’s residence, and the National Assembly hall in Hanoi. On one occasion, police firmly, but non-violently and respectfully, moved the protesters away from the Prime Minister’s residence.

In December 2002, the Nam Dinh Provincial People’s Court sentenced 10 people to prison for sentences of 18 months to 5 years for their role in protests in 2000 related to corruption and agricultural land use taxes. Also in December 2002, the Ha Tay provincial court sentenced 22 individuals to terms of 6 months to 9 years related to their participation in April 2002 protests concerning land disputes and official corruption.

In December 2002, there were reports that police forcibly dispersed one or more religious gatherings of Hmong Christians (see Section 2.c.).

In November 2002, hundreds of farmers clashed with local authorities in Ha Tay Province over land seizures, allegedly injuring six or seven policemen. No trials were known to have taken place linked to this incident.

The Government restricted freedom of association. The Government prohibited the legal establishment of private, independent organizations, insisting that persons work within established, party-controlled mass organizations, usually under the aegis of the VFF. Citizens were prohibited from establishing independent political parties, labor unions, and religious or veterans’ organizations; however, some entities, particularly unregistered religious groups, were able to operate outside of this framework with little or no government interference (see Section 2.c.).

In September 2001, Tran Van Khue and Colonel Pham Que Duong sent a letter to the party and government leadership seeking permission to form a “People’s Association to support the Party and State to fight corruption.” Police sent Khue and Nguyen Thi Thanh Xuan from Hanoi back to their residences in Ho Chi Minh City. The People’s Association later set up a web site, which the Government did not block, that included contact information, the petition, other documents written by various democracy activists, and a bulletin board where several individuals recorded their reactions to the proposal. In October 2002, the Government placed Khue under a 2-year administrative detention order—a form of house arrest. In December 2002, Khue was arrested, and he was still awaiting trial at year’s end.

c. Freedom of Religion.—The Constitution and government decrees provide for freedom of worship; however, the Government continued to restrict significantly those organized activities of religious groups that it declared to be at variance with state laws and policies.

According to credible reports, the police arbitrarily detained persons based upon their religious beliefs and practice, particularly in the mountainous, ethnic minority areas. There were credible reports that Hmong Protestants in several northwestern villages and various ethnic minority Protestants in the Central Highlands were pressured to renounce their faith. There were also reports that a few Protestants in those areas were beaten and killed (see Section 1.a.).

The Government required religious groups to be registered and used this process to control and monitor church organizations. The Government officially recognizes Buddhist, Roman Catholic, Protestant, Hoa Hao, Cao Dai, and Muslim religious organizations. To obtain official recognition, a group must obtain government approval of its leadership and the overall scope of its activities. The Government’s approval process was slow and non-transparent. Officially recognized religious organizations were able to operate with varying degrees of freedom throughout the country, and

followers of these religious bodies were usually able to worship without government harassment, except in some isolated provinces. Officially recognized organizations had to consult with the Government about their religious operations and appointments, although not generally about their tenets of faith. Some leaders of the pre-1975 Buddhist and Hoa Hao religious bodies unsuccessfully requested official recognition of their organizations. Their activities, and those of the unregistered Protestant house churches, were considered illegal by the authorities, and they sometimes experienced harassment as a result. The Government actively discouraged contacts between the illegal UBCV and its foreign supporters, and between unofficial Protestant organizations, such as the underground house churches, and their foreign supporters, although such contacts continued.

The Government generally allowed persons to practice individual worship in the religion of their choice, and participation in religious activities throughout the country continued to grow significantly. In some areas, including Ho Chi Minh City, local officials generally allowed unregistered religious organizations to hold services with little or no interference.

In some cases, particularly involving Hmong Protestants, when authorities charged persons with practicing religion illegally, they used provisions of the Criminal Code that allow for jail terms of up to 3 years for "abusing freedom of speech, press, or religion." The Criminal Code establishes penalties for "attempting to undermine national unity" by promoting "division between religious believers and non-believers." There were reports that officials fabricated evidence. Government officials denied allegations that Protestant house churches were destroyed or disbanded during the year on the basis that the churches were unregistered and therefore illegal. On September 23, police reportedly destroyed a small Protestant house church in Ho Chi Minh City.

In the Northwest Highlands and the Central Highlands, local officials allowed believers little discretion in the practice of their faith. The Government sometimes prevented Protestants in the northwest provinces and the Central Highlands from gathering to worship in unregistered house churches, forcing them to worship secretly in small family groups.

The Government continued to harass members of the banned UBCV and prevent them from conducting independent religious activities, particularly outside of their pagodas. In early March, the Government allowed 83-year-old UBCV Patriarch Thich Huyen Quang to travel to Hanoi for surgery. Government officials, including Prime Minister Phan Van Khai and foreign diplomats, met with him during his stay. After his recovery, the Government permitted the Patriarch to reside at his former pagoda in Quy Nhon, Binh Dinh Province, rather than return to the pagoda in Quang Ngai Province where he had resided since 1982 under conditions resembling house arrest. On June 27, the Government released UBCV Deputy Thich Quang Do from 2 years of administrative detention several months ahead of schedule. Most of the UBCV leadership subsequently was able to meet with one another, diplomatic representatives, and government officials in Hanoi, Ho Chi Minh City, and Quy Nhon, despite some government interference. In September, UBCV leaders met in Binh Dinh in what church members characterized as a de facto re-establishment of the UBCV's right to existence. Security authorities intercepted several UBCV leaders leaving the meetings and returned them to their respective pagodas. At year's end, several UBCV leaders, including Thich Huyen Quang and Thich Quang Do, were residing in their pagodas and appeared able to travel only with permission of security authorities. Three Ho Chi Minh City-based UBCV monks, Thich Tue Sy, Thich Nguyen Ly, and Thich Thanh Huyen, were formally sentenced to 2 years' administrative detention and "compulsory surveillance."

The Vietnamese Roman Catholic Church hierarchy remained frustrated by the Government's restrictions but continued to accommodate itself to them. A number of clergy reported a modest easing of government control over church activities in certain dioceses during the year. In many locales, local government officials allowed Catholic Church officials to conduct religious education classes (outside regular school hours) and limited charitable activities; however, in other areas, officials strictly prohibited these activities.

Restrictions on the hierarchies and clergy of religious groups remained in place, and the Government maintained supervisory control of the recognized religions. Religious organizations were required to obtain government permission to hold training seminars, conventions, and celebrations outside of the regular religious calendar, to build or remodel places of worship, to engage in charitable activities, operate religious schools, and to train, ordain, promote, or transfer clergy. Religious organizations also were required to submit their "annual plans" and "schedules" for approval by local authorities. Many of these restrictions principally were exercised by provin-

cial or city People's Committees, and treatment of religious persons varied widely by locality.

In general, religious groups faced difficulty in obtaining teaching materials, expanding training facilities, and expanding the clergy in training in response to the increased demand from congregations; the Government regulated the number of clergy that the Buddhist, Catholic, Protestant, Hoa Hao, and Cao Dai churches officially could train. On February 15, the Government allowed the Southern Evangelical Church of Vietnam (SECV), which was formally recognized in 2001, to open a seminary in Ho Chi Minh City. The Government restricted the number of seminarians to 50 and retained the right to approve candidates for admission.

The Roman Catholic Church faced significant restrictions on the training and ordination of priests and bishops. The Government effectively maintained veto power over Vatican appointments of bishops; however, in practice it showed a willingness to discuss appointments with the Vatican. In August, two new Catholic bishops were appointed with government approval. One was appointed to the diocese of Hung Hoa, a position that had been vacant for over 11 years. With these appointments, only one bishopric remained unfilled, due to the incumbent's death in June. In October, the Government also tacitly recognized the elevation of Archbishop Jean-Baptiste Pham Minh Man to Cardinal. In recent years, the Government eased its efforts to control the Roman Catholic hierarchy by relaxing the requirements that all clergy belong to the government-controlled Catholic Patriotic Association. The Catholic Church operated 6 seminaries; however, due to objections to the proposed location by local authorities, an additional centrally approved seminary had not opened by year's end. The Catholic Church also received permission to accept new seminarians but only every other year. Over 800 students were enrolled nationwide at year's end. The local People's Committee must approve all students, both upon entering the seminary and prior to their ordination as priests. Some seminary graduates remained unordained as long as 10 years. Most observers believed that the number of ordained priests was insufficient to support the growing Catholic population.

The authorities strictly controlled Hoa Hao "dissidents" and kept several church followers in jail. On March 27, Nguyen Van Lia was arrested, and, on July 1, he was sentenced to 3 years' imprisonment for holding a commemoration of the disappearance of Hoa Hao prophet Huynh Phu So. Other Hoa Hao believers were allowed more freedom to practice their faith. Between 100 and 200 visitors worshipped at the central Hoa Hao Pagoda in An Giang Province on a daily basis. Police authorities routinely questioned some persons who held alternative religious or political views, such as UBCV monks.

Since 1975 the Government had prohibited ordination into the Cao Dai priesthood; however, in 2002, at least 18 new priests were ordained and 924 apprentices entered the process leading to priesthood. Some other priests were promoted to higher ranks.

Muslim Association members were able to practice their faith, including daily prayer and fasting during the month of Ramadan.

The Government restricted and monitored all forms of public assembly, including assembly for religious activities. Large regularly scheduled religious gatherings were allowed, such as the Catholic celebrations at La Vang and the Cao Dai celebrations in Tay Ninh Province. The Hoa Hao also was allowed to hold large public gatherings to commemorate some traditional anniversaries but not others. Some specially scheduled religious gatherings also were allowed; however, in December 2002, there were reports that police in Lai Chau Province attempted to disperse one or more gatherings of Hmong Christians. Police reportedly used a gas—possibly pepper spray—during at least one of these actions, leading to the hospitalization of four or more persons.

Open adherence to a religious faith generally did not disadvantage persons in civil, economic, and secular life, although it likely would prevent advancement to the highest government and military ranks. Avowed religious practice was no longer even a bar to membership in the CPV. Some government and CPV officials increasingly admitted that they followed traditional and Buddhist religious practices.

Foreign missionaries may not operate as religious workers in the country, although many undertake humanitarian or development activities with the approval of the Government.

A government publishing house oversees the publishing of all religious materials. Many Buddhist sacred scriptures, Bibles, and other religious texts and publications, including some in ethnic minority languages, were also printed by government-approved organizations to be sold or distributed at religious institutions.

The Government allowed religious travel for some, but not all, religious persons; Muslims were able to take the Hajj (although apparently none did during the year

due to lack of foreign financial support), and more Buddhist, Catholic, and Protestant officials were able to travel and study abroad. The Government allowed many bishops and priests to travel freely within their dioceses and allowed greater, but still restricted, freedom for travel outside these areas, particularly in many ethnic areas. Many Protestant house church leaders traveled overseas during the year. Government officials discouraged officially recognized clergy from entering Son La, Lai Chau, and some other border provinces, where officials have claimed that there were no religious adherents of any kind. In March, several hundred Hao Hoa believers traveled to the Hoa Hao Pagoda in An Giang Province to commemorate a traditional anniversary that the Government refused to recognize officially. In July 2002, as many as 300,000 persons traveled there to celebrate another traditional anniversary, which the Government does recognize.

Persons who were religious practitioners in a non-State recognized group sometimes were not approved for foreign travel. In 2002, UBCV monk Thich Thai Hoa in Hue was refused permission to travel outside the country on several occasions. Protestant pastors Nguyen Lap Ma and Nguyen Nhat Thong were restricted from traveling or had to request permission from authorities to travel (see Section 2.d.).

Ethnic minority, unregistered Protestant congregations in the Central Highlands and in the northwest provinces continued to suffer severe abuses. Certain northwest provinces reportedly did not have any officially recognized churches or pagodas. Authorities in those areas also reportedly detained and imprisoned ethnic minority worshippers for practicing their faith, citing their lack of officially recognized status.

Several reports described a systematic campaign on the part of local officials in Dak Lak and Gia Lai Provinces in the Central Highlands in particular to force ethnic minority Protestants to renounce their faith. Similar campaigns continued to be reported during the year in Lai Chau, Lao Cai, and other mountainous northern provinces. Under threat of physical abuse or confiscation of property, some ethnic minority Protestants allegedly were made to sign a formal, written renunciation or to undergo a symbolic ritual, which included reportedly drinking rice whiskey mixed with animal blood. Others refused, often with no known negative repercussions. Officials reportedly ordered many non-recognized Protestant gatherings to cease, forbade some pastors from traveling, withheld government food distributions from Protestant believers, and prohibited children of Protestant families from attending school beyond the third grade. Soldiers and young party cadre reportedly moved into the homes of some ethnic minority persons in the Central Highlands, interfering with their ability to worship.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides that citizens “shall enjoy freedom of movement and of residence within the country . . . (and) freely travel abroad and return home . . . in accordance with the provisions of the law”; however, the Government imposed some limits on freedom of movement. Most citizens enjoyed freedom of movement within the country, but some local authorities required some members of ethnic minority groups to obtain permission to travel outside certain highland areas, including in some cases any travel outside their own villages.

Reportedly local officials informally discouraged clergy from traveling, even within their own provinces. Officially, citizens had to obtain permission to change their residence (see Section 1.f.). In practice, many persons continued to move without approval, especially migrant or itinerant laborers moving from rural areas to cities in search of work; however, moving without permission restricted their ability to obtain legal residence permits. Holders of foreign passports by law must register to stay in private homes. In practice, most visitors from overseas were allowed to stay with family and friends without registering. Citizens are also required to register with local police when they stay overnight in any location outside of their own homes (see Section 1.f.).

The Government employed internal isolation under the decree on administrative detention to restrict the movement of political and religious dissidents. Until June, authorities confined UBCV Deputy Thich Quang Do to his living quarters under an administrative detention order. His telephone lines were cut, and he was unable to receive visitors (see Section 2.c.).

Some persons were held under conditions resembling house arrest without known legal documentation. After a meeting in Binh Dinh Province in October, many leaders of the banned UBCV, including Patriarch Thich Huyen Quang and Deputy Head Thich Quang Do, were returned to their respective pagodas in the central and southern parts of the country and informed that they would not be able to travel without government approval (see Section 2.c.). Until April, Thich Huyen Quang had been confined to a pagoda in Quang Ngai Province, but was able to receive a

limited number of visitors. He was permitted to seek medical treatment in Hanoi, meet with government officials and foreign diplomats, travel to various UBCV-related temples, and meet with numerous followers. Protestant pastor Nguyen Lap Ma has been forced to reside in an isolated village in Can Tho Province since 1982, but authorities have allowed him to travel to Ho Chi Minh City for monthly medical check-ups since he suffered a stroke in 1998. Another Protestant pastor, Nguyen Nhat Thong, has been forced to reside in a remote village in Binh Thuan Province since 1979. He has been allowed to travel outside the village since 1986 but must ask for the permission of local authorities each time.

Foreigners generally were free to travel throughout the country, except in areas restricted on grounds of national security. The Government retained the right to approve travel to border areas and to some islands, but in practice foreigners could travel to most non-sensitive border areas without prior approval. On several occasions, local police detained and fined foreigners who police found had ventured too close to international borders and other sensitive military areas. Some of these areas were unmarked.

Although the Government no longer required citizens traveling abroad to obtain exit or reentry visas, the Government sometimes prevented persons from traveling by refusing to issue passports. In July 2002, the Government stopped issuing passports stamped Dinh Cu (immigration) to persons intending to emigrate. The Government did not allow some persons who publicly or privately expressed critical opinions on religious or political issues to travel abroad. The Government also prevented actor Don Duong from traveling abroad for periods of time during the year. In 2002, authorities confiscated his passport; however, on April 9, he was allowed to emigrate to the U.S.

Citizens' access to passports sometimes was constrained by factors outside the law, such as bribery and corruption. Refugee and immigrant visa applicants sometimes encountered local officials who arbitrarily delayed or denied passports based on personal animosities, on the officials' perception that an applicant did not meet program criteria, or to extort a bribe. Some Protestant pastors who had served time in reeducation camps were denied passports on the grounds that they had no residence permits or national identification cards. Some family members of ethnic minorities granted refugee status abroad have been reissued household registration papers with the missing member removed. Other family members of refugees have been unable to obtain passports to reunite abroad.

The United States continued to process immigrants and refugee applicants for admission and resettlement, including Amerasians, former reeducation camp detainees, former U.S. government employees, family reunification cases, and returnees from camps of first asylum elsewhere in the region (under the Resettlement Opportunity for Vietnamese Returnees program). Most of these programs were closed to new applicants nearly a decade ago, with the number of cases in some categories now in the low double digits. (An exception was the Amerasian program, which remained opened to new applicants). The Government had constructive discussions with the United States on the future of these programs. There were concerns that some members of minority ethnic groups, such as those in the Central Highlands, may not have had ready access to these programs because the Government denied them passports. This was not the case for the program for the majority of former U.S. government employees and re-education camp detainees; however, delays in passport issuance to some Montagnards and some others who applied under the different refugee sub-programs continued. These passport applicants also included relatives of ethnic minority persons who fled the country in recent years and were admitted to the United States as refugees from Cambodia.

The Government generally permitted citizens, who had emigrated abroad, to return to visit. Officially, the Government considers anyone born in the country to be a citizen, even if they have acquired another country's citizenship, unless a formal renunciation of citizenship has been approved by the President. However, in practice, the Government usually treated overseas Vietnamese as citizens of their adopted country. Emigrants were not permitted to use Vietnamese passports after they acquired other citizenship; however, because citizens who lived overseas were considered both a valuable potential source of foreign exchange and expertise for the country but also a potential security threat, the Government generally encouraged them to visit but sometimes monitored them carefully.

In early 2001, over 1,000 Montagnards from the Central Highlands fled to Cambodia following a crackdown by security forces. The crackdown followed demonstrations complaining of expropriation of traditional lands, influx of lowland ethnic majority Kinh into the Central Highlands, and religious discrimination. A tripartite agreement on the Montagnards' repatriation among the Governments of Vietnam and Cambodia and the U.N. High Commissioner for Refugees (UNHCR) was aban-

done by UNHCR after the Government restricted access and attempted to intimidate and pressure Montagnards in the UNHCR camps to return. In June 2002, an official acknowledged that the country's leadership had made mistakes and was in part responsible for the turmoil in the Central Highlands. Subsequently, the Government declared it would award each minority family in the Central Highlands at least one hectare of land for farming and 400 square meters for housing; however, the Government has administered the program unevenly, and ethnic minority persons complained that local officials allotted them mostly undesirable lands. Dozens more fled the country during the year, also seeking refugee status.

During the year, there were credible reports that ethnic minority persons fleeing the country were arrested or turned back at the Cambodian border, sometimes violently. A small number were reported to be in hiding on both sides of the border.

Foreign diplomats and journalists visited 15 UNHCR-sponsored returnees in September. While the returnees complained about poor economic conditions and the failure of the UNHCR to implement certain promises, they did not claim to have been singled out for any special harassment due to their status. In 2002, there were credible reports that non-uniformed security forces crossed the border to try to capture and return many of those who had fled after the 2001 unrest. These reports indicated that security forces succeeded in forcibly returning approximately 50 persons to Dak Lak Province. They reportedly returned another eight persons to Gia Lai Province. Gia Lai authorities reportedly placed two of the returnees in jail and the other six under administrative probation. Family members reported the disappearances of at least 42 ethnic minority persons from Gia Lai Province. Most of those who fled and were placed under the protection of the UNHCR were subsequently resettled from Cambodia to a third country.

The country is not a signatory to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government generally provided protection against refoulement but did not routinely grant refugee or asylum status. Several embassies in the country reported that individuals claiming to be North Korean, who requested asylum in the country, have been returned to China on the basis of illegal immigration status and their own claims to have entered the country overland from China.

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

The Constitution does not provide the right for citizens peacefully to change their government, and citizens could not freely choose and change the laws and officials that govern them. CPV control over the selection of candidates in elections for the National Assembly, the presidency, the prime ministership, and local government undermines this right. All authority and political power is vested in the CPV, and the Constitution delineates the leadership of the CPV. Political opposition movements and other political parties are illegal. The CPV Politburo is the supreme decision-making body in the nation, although it technically reports to the CPV Central Committee. During the first session of the Ninth Congress of the CPV in April 2001, the CPV replaced the standing board, consisting of the 5 most senior members of the Politburo, with a Secretariat, originally consisting of the General Secretary, 4 lower ranking Politburo members, and 4 non-Politburo Central Committee members but now with a total of at least 11 members, to oversee day-to-day implementation of leadership directives.

The Government continued to restrict public debate and criticism to certain aspects of individual, state, or party performance determined by the CPV itself; however, legislators continued to question and criticize ministers in bi-annual National Assembly sessions that were broadcast live on television. No public challenge to the legitimacy of the one-party State is permitted; however, there were instances of unsanctioned letters critical of the Government from private citizens, including some former party members, which circulated publicly.

The Government strongly encouraged eligible citizens to vote in elections. Although voting is not compulsory, election officials applied many means to persuade citizens to vote, including using public address systems to ask late voting citizens by name to come to the polls. The Government claimed a 99.73 percent voter turnout for the May 2002 National Assembly election. Proxy voting, while illegal, appeared widespread. In addition, most voting was over by 10:00 a.m., although polls were required to be open until 7:00 p.m. The party-controlled VFF approved all candidates for the 498-member assembly.

The National Assembly, although subject to the control of the CPV (all of its senior leaders and 90 percent of its members were party members), increasingly served as a forum for the expression of local and provincial concerns and as a critic of corruption and inefficiency. However, it does not initiate legislation and never has

passed legislation that the CPV opposed. CPV officials occupied most senior government and National Assembly positions and continued to have the final say on key issues. In 2002, the National Assembly debated the government's cabinet nominations; although it approved all of the nominations, more than 30 percent of the delegates voted against some nominees. During the year, the National Assembly continued to engage in public debate on economic, legal, and social issues. It also continued to exert its increasing power to revise or reject draft laws and actively pursued enhancing its capability to draft laws.

The law provides the opportunity for equal participation in politics by women and minority groups. Women held a number of important government positions, including the Vice Presidency. There were 136 women in the 498-seat National Assembly; there were 3 women at the Ministerial level; and there were no women in the Politburo. There were only a few women in provincial level leadership positions.

There were 87 ethnic minority members in the 498-seat National Assembly and 2 ethnic minority members serving in cabinet-level positions. The CPV General Secretary is a member of the Tay ethnic minority group; however, the number of minorities in Government or national-level politics does not accurately reflect their percentage of the population.

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

The Government does not permit private, local human rights organizations to form or operate. The Government generally did not tolerate attempts by organizations or individuals to comment publicly on government human rights practices and used a wide variety of means to suppress domestic criticism of its human rights policies, including surveillance, limits on freedom of assembly, interference with personal communications, and detention. However, the SECV and Catholic Church did not suffer any apparent adverse consequences from widely publicized letters to the Government criticizing alleged acts of religious oppression toward ethnic minorities in the Central Highlands. UBCV Deputy Thich Quang Do also sent a widely publicized letter to the Government condemning the detention of former UBCV monk Thich Tri Luc (see Section 1.b.).

The Government generally prohibited private citizens from contacting international human rights organizations, although some activists were able to do so. The Government did not allow any visits by international NGO human rights monitors; however, it did allow a representative from the UNDP to visit the Central Highlands in August and a UNHCR local official to visit in September. The Government criticized almost all public statements on human rights issues by international NGOs and foreign governments.

The Government generally was willing to discuss human rights problems bilaterally with some governments if such discussions took place under the rubric of "exchanges of ideas" rather than as "investigations." During the year, several foreign governments held official talks concerning human rights. A delegation of representatives from European Union member countries visited Dak Lak Province in June and reported that there were limits on citizens' religious freedom.

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

The Constitution prohibits discrimination based on gender, ethnicity, religion, or social class; however, enforcement of these prohibitions was uneven. Some persons formerly interned in reeducation camps on the basis of association with the pre-1975 government continued to report varying levels of discrimination as they and their families sought access to housing, education, and employment. Some military veterans of the pre-1975 government still faced economic hardship as a result of past employment restrictions and discrimination, but none were known still to be incarcerated for their activities before 1975. These veterans and their families generally were unable to obtain employment with the Government. This prohibition was less restrictive than in previous years because of the growth of job opportunities in the private sector. There was no official discrimination against HIV/AIDS positive citizens; however, there was some societal discrimination.

Women.—The law addresses the problem of domestic violence; however, authorities did not enforce the law effectively. Officials increasingly acknowledged domestic violence, which also was discussed more openly in the media. International NGO workers and local contacts reported that domestic violence against women was common. Approximately two-thirds of divorces reportedly were due in part to domestic violence. The divorce rate has risen in the past few years, but many women remained in abusive marriages rather than confront the social and family stigma and economic uncertainty of divorce.

Under the Criminal Code, it is a crime to use violence, threaten violence, take advantage of a victim who is unable to act in self-defense, or resort to trickery to have sexual intercourse with a victim against that person's will. This is believed to criminalize rape, spousal rape, and, in some instances, sexual harassment; however, there were no known instances of prosecution for spousal rape. NGOs and party-controlled mass organizations took some limited steps to establish shelters and train police to deal with domestic violence.

Prostitution is officially illegal but appeared to be tolerated widely. Some women were coerced to work as prostitutes, and some were victimized by false promises of lucrative work (see Section 6.f.). Many more women felt compelled to work as prostitutes because of poverty and a lack of other employment opportunities. NGOs estimated that there were 300,000 prostitutes in the country, including those who engaged in prostitution part-time or seasonally. There were reports that some persons in Ho Chi Minh City addicted young women to heroin and forced them to work as prostitutes to earn money for drugs. Parents often expected an eldest daughter to assume responsibility for a significant part of a family's finances. There were reports that some parents coerced daughters into prostitution or made such extreme financial demands on them that they felt compelled to engage in prostitution. The Women's Union, a mass organization under the VFF, as well as international NGOs engaged actively in education and rehabilitation programs to combat these abuses.

Trafficking in women for the purpose of sexual exploitation, both domestically and internationally, was a serious problem (see Section 6.f.).

While there is no legal discrimination, women faced deeply ingrained societal discrimination. Despite provisions in the Constitution, in legislation, and in regulations that mandate equal treatment, and although some women occupied high government posts, few women competed successfully for higher status positions. The Constitution provides that women and men must receive equal pay for equal work; however, the Government did not adequately enforce this provision. Very poor women, particularly in rural areas but also in cities, performed menial work in construction, waste removal, and other jobs for extremely low wages. Despite the large body of legislation and regulations devoted to the protection of women's rights in marriage as well as in the workplace, and Labor Code provisions that call for preferential treatment of women, women did not always receive equal treatment. Nevertheless, women played an important role in the economy and were engaged widely in business and in social and educational institutions. Opportunities for young professional women have increased markedly in the past few years, with greater numbers of women entering and staying in the civil service, universities, and the private sector.

The VFF-controlled Women's Union has a broad agenda to promote women's rights, including political, economic, and legal equality, and protection from spousal abuse. The Women's Union operated micro-credit consumer finance programs and other programs to promote the advancement of women. International NGOs and other international organizations regarded the Union as effective, but they and Women's Union representatives believed that more time is required to overcome societal attitudes that relegated women to lower status than men. The Government also has a committee for the advancement of women, which coordinated inter-ministerial programs that affected women.

Children.—International organizations and government agencies reported that, despite the Government's promotion of child protection and welfare, children continued to be at risk of economic exploitation. While education is compulsory through the age of 14, the authorities did not enforce the requirement, especially in rural areas where government and family budgets for education were strained and where children were needed for agricultural labor. The culture's strong emphasis on education led parents who could send children to school to do so, rather than to allow them to work. Due to lack of classroom space, most schools operated two sessions, and children attended either morning or afternoon sessions. Some street children both in Ho Chi Minh City and Hanoi participated in night education courses. The public school system includes 12 grades. Over 90 percent of children attended elementary grades, but the percentage that attended junior and senior high school dropped sharply. These percentages were even lower in remote mountainous areas, although the Government ran a system of subsidized boarding schools through the high school level for ethnic minority students. Religious groups operated some orphanages, despite the Government's prohibition on such activities, and sent the children to public schools during the day.

The Government continued a nationwide immunization campaign, and the government-controlled press regularly stressed the importance of health and education for all children. While reports from domestic sources indicated that responsible officials generally took these goals seriously, concrete actions were constrained by severely limited budgets. According to UNICEF, despite growth in incomes over the past dec-

ade, severe malnutrition remained a problem; approximately 39 percent of children under 5 years of age were underweight during the 1995–2000 timeframe.

Widespread poverty contributed to continued child prostitution, particularly of girls but also of some boys, in major cities. Many prostitutes in Ho Chi Minh City were under 18 years of age. Some child prostitutes, such as those from abusive homes, were forced into prostitution for economic reasons, having few other choices available to them.

Some children were trafficked domestically and others were trafficked to foreign destinations for the purpose of sexual exploitation. Press reports documented the conviction and imprisonment of a number of traffickers (see Section 6.f.). Individuals also were convicted in cases in which parents received payments in exchange for releasing their babies for adoption. Mass organizations and NGOs established limited programs to assist trafficked children to reintegrate into society.

According to a 2001 government report on child labor, there were 20,000 street children in the country. Street children were vulnerable to abuse and sometimes were abused or harassed by police. International NGOs documented numerous cases of Cambodian children trafficked to Ho Chi Minh City for short-term work in begging rings. Police picked up street children in Hanoi and Ho Chi Minh City and held them in juvenile detention facilities in advance of the December Southeast Asia Games.

Persons with Disabilities.—The law requires the State to protect the rights and encourage the employment of persons with disabilities. However, provision of services to assist persons with disabilities was limited. Government agencies responsible for services to persons with disabilities worked with domestic and foreign organizations to provide protection, support, physical access, education, and employment; however, implementation was hampered by limited budgets. The Government operated a small network of rehabilitation centers to provide long-term in-patient physical therapy.

Educational opportunities for children with disabilities were poor, but improving. Just over 10 percent of children with disabilities were enrolled in school. During the year, the Government worked with the World Bank and foreign NGOs to train additional teachers for students with disabilities.

The law provides for preferential treatment of firms that recruit persons with disabilities for training or apprenticeship and levies a special tax on firms that do not employ workers with disabilities; however, the Government enforced these provisions unevenly. In 2002, the Ministry of Construction enacted the “Barrier-Free Design and Construction Code” and “Standards for Access for People with Disabilities,” which requires that the construction or major renovation of new government and large public buildings include access for people with disabilities. The Ministry of Construction trained architects and engineers in the new requirements. At year’s end, the Government was developing an enforcement and compliant process to support these new codes.

International groups also assisted the Government in implementing programs to increase access by persons with disabilities to education and employment.

National/Racial/Ethnic Minorities.—Although the Government officially is opposed to discrimination against ethnic minorities, longstanding societal discrimination against ethnic minorities was widespread. In addition, there continued to be credible reports that local officials sometimes restricted ethnic minority access to some types of employment and educational opportunities. The Government continued to implement policies designed to narrow the gap in the standard of living between ethnic groups living in the highlands and richer, lowland ethnic majority Kinh by granting preferential treatment to domestic and foreign companies that invested in highland areas. The Government ran special schools for ethnic minorities in many provinces, including subsidized boarding schools at the high school and middle school levels, and offered special admission and preparatory programs as well as scholarships at the university level.

The Government resettled some ethnic minorities from inaccessible villages in mountainous provinces to locations where basic services were easier to provide; however, the effect of the policy sometimes diluted the political and social solidarity of these groups. The Government acknowledged that one of the goals of resettlement was to impel the minorities to change from traditional “slash and burn” agricultural methods to sedentary agriculture. This also had the effect of making more land available to ethnic majority Kinh migrants to the mountainous areas. Large-scale, government-encouraged as well as spontaneous migration of ethnic Kinh to the Central Highlands diluted the indigenous culture there. It also led to numerous land disputes between ethnic minority households and ethnic Kinh migrants. The loss of

traditional ethnic minority lands to Kinh migrants was an important factor behind the ethnic unrest in 2001.

There were numerous credible reports that groups of Montagnards continued to flee to Cambodia to escape ethnic and religious repression in the Central Highlands. Government officials continued to harass some highland minorities, particularly the Hmong in the northwest provinces and several ethnic groups in the Central Highlands, for practicing their Protestant religion without official approval (see Section 2.c.).

Government officials stated that there were many instances in which local government officials in the Central Highlands acted contrary to stated national policies or failed to uphold national laws. During the year, the CPV reiterated clearly the party's policies on ethnic minorities, religion, and land.

The Government continued to impose extra security measures in the Central Highlands. There were unconfirmed reports of continued pushbacks of Montagnards seeking to cross into Cambodia, sometimes accompanied by beatings and detentions; however, the Government continued to implement measures to address the causes of the unrest and initiate new measures as well. The Government allocated land to ethnic minorities in the Central Highlands through a special program; however, there were complaints that some of the allocated land was poor (see Section 2.d.).

Previously, the law required all classroom instruction law to be conducted in the Vietnamese language; however, the Government continued a program to conduct classes in some local ethnic minority languages up to grade five. The Government worked with local officials to develop a local language curriculum. The Government appeared to be implementing this program more comprehensively in the Central Highlands than in the mountainous northern provinces. The Government broadcast radio and television programming in ethnic minority languages in some areas. The Government also instructed ethnic Kinh officials to learn the language of the locality in which they worked; however, implementation was not widespread by year's end. Provincial governments implemented initiatives designed to increase employment, reduce the income gap between ethnic minorities and ethnic Kinh, and be sensitive and receptive to ethnic minority culture and traditions. Officials in Lam Dong Province reportedly hired ethnic minority persons to teach minority languages to ethnic Kinh police. Officials in Dak Lak Province reportedly experimented with a land policy that would allocate certain forestlands to ethnic minority villages for communal use.

Section 6. Worker Rights

a. The Right of Association.—Workers are not free to join or form unions of their choosing. Trade unions are controlled by the Party and have only nominal independence. All unions must be approved by and must affiliate with the party-controlled Vietnam General Confederation of Labor (VGCL). The VGCL claimed that it represented 95 percent of public sector workers and 90 percent of workers in state-owned enterprises. However, the overall level of unionization of the workforce was 10 percent. Approximately 500,000 union members worked in the private sector, including enterprises with foreign investment. The vast majority of the work force lived in rural areas, engaged in small-scale farming, and was not unionized.

The VGCL asserted that authorities did not prosecute some violations of the Labor Law. Union leaders influenced key decisions, such as the amendment of labor legislation, development of social safety nets, and the setting of health, safety, and minimum wage standards.

While the Labor Law states that all enterprise-level and professional trade unions are affiliated with the VGCL, in practice hundreds of unaffiliated "labor associations" were organized at many individual enterprises and in occupations such as those of taxi, motorcycle and cyclo drivers, cooks, and market porters. The ILO and the UNDP cooperated on a large multiyear technical assistance program to strengthen labor law implementation.

The Labor Law prohibits anti-union discrimination on the part of employers against employees who seek to organize.

Individual unions legally are not free to affiliate with, join, or participate in, international labor bodies, and they did not do so in practice. However, the VGCL had relations with 95 labor organizations in 70 countries.

b. The Right to Organize and Bargain Collectively.—Under the law, the provincial or metropolitan branch of the VGCL was responsible for organizing a union within 6 months of establishment of any new enterprise. Management is required by law to accept and to cooperate with those unions. The Labor Law provides VGCL-affiliated unions the right to bargain collectively on behalf of workers. Many contracts have been negotiated that ended the practice of annual renewal, and multi-year contracts have become more common. Under 2002 amendments to the Labor Code, a

definite term labor contract can only be renewed once; thereafter, an indefinite term labor contract must be entered into if employment is to continue. Labor leaders have increased the number of workplace issues in collective bargaining agreements, such as Sunday work. Since the country began moving away from central planning, market forces have played an increasingly important role in determining wages.

The Labor Law provides for the right to strike if workers follow the stipulated process of conciliation and arbitration. The law requires that management and labor first attempt to resolve labor disputes through the enterprise's own labor conciliation council. However, many enterprises did not have labor conciliation councils. In the absence of such a council or if a council fails to resolve a labor dispute, the dispute is referred to labor arbitration successively at the district and provincial level. Individual workers may take cases directly to the peoples' court system, but in most cases, only after conciliation has been attempted and failed. Unions have the right to appeal decisions of provincial labor arbitration councils to provincial people's courts or to strike. Because this process was lengthy and the necessary dispute resolution bodies in many provinces and localities have never been established, nearly every strike was considered illegal.

According to the Ministry of Labor, 72 strikes took place in the first 6 months of the year. Of these, 51 were against foreign-invested enterprises, 18 involved domestic private enterprises, and 3 affected state-owned firms. Other sources reported 14 strikes against state-owned firms. For example, from September 27 to 29, nearly 400 workers at a company in Ho Chi Minh City blocked the entrance to the factory over unpaid salaries. On September 28, 300 workers demonstrated at another Ho Chi Minh City factory to protest harsh working conditions. Although strikes typically did not follow the authorized conciliation and arbitration process, and thus were of questionable legality, the Government tolerated them and took no action against the strikers. Although the VGCL or its affiliate unions did not sanction these strikes officially, the local and provincial levels of the VGCL unofficially supported many of them. The Labor Law prohibits retribution against strikers, and there were no reports of retribution. In some cases, the Government disciplined employers for illegal practices that led to strikes.

The Labor Law prohibits strikes in 54 occupational sectors and businesses that serve the public or are considered by the Government to be important to the national economy and defense. A subsequent decree defined these enterprises to be those involved in: Electricity production; post and telecommunications; railway, maritime, and air transportation; banking; public works; and the oil and gas industry. The law also grants the Prime Minister the right to suspend a strike considered detrimental to the national economy or public safety.

The same labor laws as in the rest of the country govern the growing number of export processing zones and industrial zones. There is anecdotal evidence that the Government enforced labor laws more actively in the zones than outside them.

c. Prohibition of Forced or Bonded Labor.—The Labor Law prohibits all forms of forced and bonded labor, including by children; however, there were reports that thousands of children worked in exploitative situations (see Section 6.d.). Some women were coerced into prostitution (see Sections 5 and 6.f.).

The Government denied the use of prison labor without compensation; however, prisoners routinely were required to work for little or no pay. They produced food and other goods used directly in prisons or sold on local markets reportedly to purchase items for prisoners.

A government ordinance requires all male citizens between 18 and 45 years of age and women between 18 and 35 years of age to perform 10 days of annual public labor; however, this ordinance was rarely enforced. The ordinance also allows citizens to find a substitute or pay a marginal fee instead of working.

d. Status of Child Labor Practices and Minimum Age for Employment.—Child labor was a problem. The Labor Law prohibits most child labor but allows exceptions for certain types of work. The law sets the minimum age for employment at 18 years of age, but enterprises may hire children between the ages of 15 and 18 if the firm obtains special permission from their parents and the Ministry of Labor, Invalids, and Social Affairs (MOLISA). In June, the Government ratified the ILO Minimum Age Convention 138. However, a widely publicized 2001 MOLISA survey found that about 40,000 children between the ages of 8 and 14 years worked part-time or full-time in violation of the Labor law. That estimate may be low, since many more children worked in the informal sector, usually on family farms or family businesses not within the scope of the Labor Law.

By law, an employer must ensure that workers under 18 years of age do not undertake hazardous work or work that would harm their physical or mental development. Prohibited occupations are specified in the Labor Law. The Labor Law per-

mits children to register at trade training centers, a form of vocational training, from 13 years of age. Children may work a maximum of 7 hours per day and 42 hours per week and must receive special health care.

There were reports that enterprises, including companies with foreign investment, have discovered underage workers in their employ. According to reliable sources, this usually occurred when the child workers presented false identity documents, frequently borrowed from older family members. Once discovered, the children lost their jobs, but in many cases the companies paid for their schooling and promised to reemploy them once they were of age.

In rural areas, children worked primarily on family farms and in other agricultural activities. In some cases, they began work as young as 6 years of age and were expected to work as adults by the time they were 15 years of age. In urban areas, children also may work in family-owned small businesses. Migration from rural to urban settings has exacerbated the child labor problem. Officials said that juveniles in Education and Nourishment Centers, which functioned much as reform schools or juvenile detention centers do elsewhere, were assigned work for "educational purposes" that presumably generated income for the school.

A study of child labor in Ho Chi Minh City found cases in which parents in poor families entered into "verbal agreements" with employers, who put their children to work; the children's salaries were sent directly to the parents.

Government officials have the power to fine and, in cases of Criminal Code violations, prosecute employers who violate child Labor Laws. While the Government committed insufficient resources to effectively enforce laws providing for children's labor safety, especially for children working in mines and as domestic servants, it detected some cases of child exploitation, removed the children from the exploitative situations, and fined the employers. International donor assistance targeted the problem of child labor. In addition, a child labor unit was established within MOLISA.

The law prohibits forced and bonded labor by children; however, thousands of children worked in exploitative situations and were trafficked both domestically and internationally for the purpose of sexual exploitation (see Section 6.f.).

e. Acceptable Conditions of Work.—The Labor Law requires the Government to set a minimum wage, which is adjusted for inflation and other economic changes. The official monthly minimum wage for foreign-investment joint ventures was \$40 (626,000 dong) in urban districts of Hanoi and Ho Chi Minh City; \$35.90 (556,000 dong) in rural districts of Hanoi, Ho Chi Minh City, and districts of Hai Phong, Bien Hoa City, and Vung Tau City; and \$31.40 (487,000 dong) elsewhere. The Government may temporarily exempt certain joint ventures from paying the minimum wage during the first months of an enterprise's operations or if the enterprise is located in a very remote area, but the minimum wage in these cases can be no lower than \$29.90 (417,000 dong). On January 1, the official monthly minimum wage of the State sector was increased to \$18.80 (290,000 dong) from \$13.60 (210,000 dong). This amount remained inadequate to provide a worker and his family a decent standard of living. The new salary policy benefited over 6 million persons, including 300,000 public servants working in administration, CPV organizations, unions, and leagues. However, state-owned enterprises consistently paid more than that minimum wage. The number of workers who received government-subsidized housing decreased. Many workers received bonuses and supplemented their incomes by engaging in entrepreneurial activities. Households frequently included more than one wage earner. A 2001 ILO study found that minimum wage requirements were applied well in all sectors, with the exception of smaller private sector enterprises. Unlike in previous years, there were no reports that companies with foreign investment violated minimum wage requirements.

The Government set the workweek for government employees and employees of companies in the state sector at 40 hours and encouraged the private business sector and foreign and international organizations that employed local workers to reduce the number of hours in the workweek to 40 hours but did not make compliance mandatory.

The Labor Law sets normal working hours at a maximum of 8 hours per day, with a mandatory 24-hour break each week. Additional hours require overtime pay at 1½ times the regular wage, 2 times the regular wage on weekly days off, and 3 times the regular wage on holidays and paid leave days. The law limits compulsory overtime to 4 hours per week and 200 hours per year. Amendments to the Labor Law in 2002 provide for an exception in special cases where this maximum can be up to 300 additional hours worked annually, subject to stipulation by the Government after consulting with the VGCL and employer representatives. The law also prescribes annual leave with full pay for various types of work. It was unknown how well the Government enforced these provisions.

According to the law, a female employee who is engaged, pregnant, on maternity leave, or is raising a child under 1 year of age cannot be dismissed unless the enterprise is closed. Female employees who are at least 7 months pregnant or are raising a child under 1 year of age cannot work overtime, at night, or in distant locations.

The Labor Law requires the Government to promulgate rules and regulations that ensure worker safety. The MOLISA, in coordination with local people's committees and labor unions, is charged with enforcing the regulations. In practice enforcement was inadequate because of MOLISA's low funding and a shortage of trained enforcement personnel. The VGCL reported that there were 300 labor inspectors in the country but that at least 600 were needed. On-the-job injuries due to poor health and safety conditions in the workplace were a problem. According to statistics from MOLISA, there were 4,521 injuries and 514 fatalities resulting from accidents in 2002; however, there was evidence that workers, through labor unions, were effective in improving working conditions. Some foreign companies with operations in the country have established independent monitoring of problems at their factories. Companies reported that MOLISA or provincial labor agencies performed labor and occupation safety and health inspections at enterprises when they learned of serious accidents or when there were reports of hazardous conditions.

The Labor Code provides that workers may remove themselves from hazardous conditions without risking loss of employment.

f. Trafficking in Persons.—The Penal Code prohibits trafficking in women and children; however, trafficking in women and children for the purpose of sexual exploitation and for labor, both domestically and internationally, was a serious problem. While no law specifically prohibits trafficking in men, existing laws could be used to prosecute traffickers who recruit or send men abroad to work for “illegitimate profits” or illegal purposes. While reliable statistics on the numbers of citizens trafficked were not available, there was evidence that the numbers have grown in recent years. The Social Evils Department of MOLISA and the Criminal Police Department of the MPS were the main government agencies involved in efforts to combat trafficking, in cooperation with the Ministry of Justice, the Women's Union, and the Border Guards. The police took an increasingly active role in investigating trafficking during the year.

During the year, the Government increased its efforts to prosecute traffickers. The law provides for prison sentences of 2 to 20 years for each offense for persons found guilty of trafficking women, and for between 3 years and life in prison for each offense for persons found guilty of trafficking children. In July 2002, a government decree forbade the use of marriage and adoption for trafficking related purposes. Hundreds of traffickers have been convicted and imprisoned, most notably in one high-profile case in 2002 in which over 150 persons were indicted for prostitution and migrant smuggling. That particular case involved ex-ministerial and law enforcement agents. The Government worked with international NGOs to supplement law enforcement measures and cooperated with other national governments to prevent trafficking. It also cooperated closely with other countries within the framework of INTERPOL and its Asian counterpart.

The country was a source country for trafficking in persons. Women were trafficked primarily to Cambodia and China for sexual exploitation and arranged marriages. According to one report, between 1990 and 2000, approximately 20,000 young women and girls were sent to China to become brides, domestic workers, or prostitutes; however, it was not clear how many were victims of trafficking. Between 1995 and 2000, approximately 5,000 women and children were trafficked to and escaped from Cambodia. Some Vietnamese women also were trafficked to Singapore, Hong Kong, Macau, Thailand, Taiwan, the United Kingdom, and the United States. There also were reports that some Vietnamese women going to Taiwan, Hong Kong, Macau, and China through arranged marriages were victims of trafficking. The Government estimated that approximately 10 percent of Vietnamese women in arranged marriages with Chinese men had been recruited under false pretenses or may have become trafficking victims. Women and children also were trafficked within the country, usually from rural to urban areas. Incidents of trafficking of adult males domestically or abroad were rare. In the past, organized crime groups used Vietnam as a transit point for persons trafficked from China and the Middle East to Australia, Canada, and Europe. Unlike in previous years, there were no reports that Vietnam was a transit country for trafficking in persons during the year.

Some children were trafficked domestically and others were trafficked to foreign destinations for the purpose of prostitution. An NGO advocate estimated that the average age of trafficked girls was between 15 and 17 years of age. Some reports indicated that the ages of girls trafficked to Cambodia typically was even lower. Although statistics were not reliable, women and girls were trafficked from southern

delta and highland provinces to Cambodia and from northern provinces into China generally for the purposes of prostitution, domestic work, or marriage.

Provincial and national-level authorities made combating trafficking in women and children a priority. In January, in an effort to deal with problems of trafficking of infants for adoption and corruption in adoption practices, authorities suspended foreign adoptions pending the negotiation of new bi-lateral adoption protocols.

There were reports that some women from Ho Chi Minh City and the Mekong Delta who married men from Taiwan were forced into prostitution after their arrival in Taiwan. There was reported trafficking in women to the Macau Special Administrative Region of China with the assistance of organizations in China that were ostensibly marriage service bureaus, international labor organizations, and travel agencies. After arrival, women were forced into conditions similar to indentured servitude; some were forced into prostitution. In August 2002, the Government suspended the licenses of marriage mediation services and transferred their function to the Women's Union. The services helped arrange marriages between women and foreigners, primarily Taiwanese men. Diplomatic sources estimated that between 15,000 and 18,000 Vietnamese women married Taiwanese men each year, although government and NGO observers believed that most were not trafficked.

Poor women and teenage girls, especially those from rural areas, were most at risk for being trafficked. It appeared that most trafficking victims came from some Mekong Delta provinces, such as Can Tho and An Giang and some northern provinces, such as Quang Ninh. Some were sold by their families as domestic workers or for sexual exploitation. In some cases, traffickers paid families several hundred dollars (a large sum for many families) in exchange for allowing their daughter to go to Cambodia for an "employment offer." Many victims faced strong pressure to make significant contributions to the family income. Others were offered lucrative jobs by acquaintances. False advertising, debt bondage, confiscation of documents, and threats of deportation were other methods commonly used by the traffickers, spouses, and employers.

Individual opportunists and informal networks, as well as some organized groups, lured poor, often rural, women with promises of jobs or marriage and forced them to work as prostitutes (see Section 5). The Government stated that organized criminal groups were involved in recruitment, transit, and other trafficking-related activities.

Corruption was a serious problem at all levels, and some officials were involved in the flow of overseas workers into exploitative conditions or into trafficking. While it was likely that some individual officials assisted traffickers, there was no evidence of official, institutional, or government involvement in trafficking in persons. Unlike in previous years, there were no reports that government officials and associated private individuals were convicted of and sentenced for trafficking related crimes during the year.

Official institutions, including MOLISA, the Women's Union, the Youth Union and the Committee for Population, Family and Children, had active programs in place aimed at prevention and victims' protection. These programs included publicity to warn women and girls of these dangers, repatriation programs to help female returnees, and vocational training for teenage girls in communities considered vulnerable to trafficking in persons. Government agencies worked closely with the International Organization for Migration and a number of other international NGOs to provide temporary shelter, some medical services, education, credit, counseling, and rehabilitation to returned trafficking victims. In March 2002, government officials held a series of meetings with their Chinese counterparts to improve victim protection and repatriation processes. During the year, Government officials held similar meetings with the Cambodian Government. The country also participated in an ILO project on child trafficking in the Mekong region.

Although trafficking victims in general were not treated as criminals, some women trafficked into prostitution were prosecuted for prostitution or placed in rehabilitation centers.

Security agencies with border control responsibility have also received training in investigative techniques that can be used to prevent trafficking.

