

AFRICA

ANGOLA

Angola is a constitutional republic in transition after its 27-year civil war ended in 2002. Legislation provides for decentralization; however, the government remained highly centralized and dominated by the presidency. UN observers considered the 1992 presidential election generally free and fair. Civilian authorities generally maintained effective control of the security forces.

While the government's human rights record showed improvements in a few areas, it remained poor and serious problems remained. The following human rights problems were reported:

- abridgment of the right of citizens to elect officials at all levels
- unlawful killings, disappearances, torture, beatings, and abuse of persons
- harsh and life-threatening prison conditions
- corruption and impunity
- arbitrary arrest and detention and lengthy pretrial detention
- lack of due process
- an inefficient and overburdened judicial system
- restrictions on freedom of speech, the press, and assembly
- violence and discrimination against women and children

The government was increasingly open to civil society and opposition participation in political processes, especially during the debate and passage of the package of electoral laws. The National Election Commission and the Ministry of Territorial Administration began preparations for the scheduled 2006 elections. While access to media in the provinces continued to be an area of concern, the government gave more access and information to independent media. The appointment of a human rights ombudsman was an important step in ensuring citizen's ability to report human rights concerns directly to an independent governmental body.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, security forces killed an unknown number of persons. Local human rights organizations reported that police were the primary human rights abusers and responsible for most unlawful killings (see section 1.c.). Unlike previous years, members of the civil defense organization (ODC) were not implicated in unlawful killings. Impunity remained a problem.

There were unconfirmed reports of unlawful killings by police and private security forces in Cabinda. There also were unconfirmed reports of clashes in the enclave between the Armed Forces of Angola (FAA) and the Front for the Liberation of the Enclave of Cabinda (FLEC); however, combat in this province had largely ceased.

Domestic media reported cases of police resorting to excessive force, including unlawful killings. In January independent media reported that police shot and killed a young man, mistakenly believed to be a wanted criminal, in his home in the Cazenga neighborhood of Luanda. On February 5, independent media reported that the police of killing a 24-year-old man in the Rangel neighborhood of Luanda. On July 9, independent media reported that police killed a 2-year-old child in Luanda Norte Province while trying to extort money from the child's mother. According to the Association for Justice, Peace and Democracy, a man died in custody after his arrest in September. In October independent media reported that police killed a known gang member in his home in the Zambizanga neighborhood of Luanda. Independent media reported extensively during the year on extrajudicial killings of

known criminal gang members. Police largely viewed these killings as an alternative to relying on the country's ineffective judicial system.

A human rights activist reported that in January at least one person died during an operation to expel illegal migrant workers from the country (see section 1.c.).

Unlike past years, police and the armed forces did not kill civilians during protest demonstrations.

There were no further developments in 2003 killings by police.

Eight provinces, encompassing approximately 50 percent of the country, contain areas that were heavily mined during the long civil war. The UN Development Program (UNDP) estimated that there were 2 million unexploded munitions in the country; however, international nongovernmental organizations (NGOs) conducting landmine clearance operations in the country estimated the number of landmines at 500 thousand. It was reported that fewer individuals were killed and maimed due to landmine accidents in 2005 compared with previous years. There were more than 80,000 landmine victims with injury-related disabilities.

The investigation of the July 2004, death of Mfulumpinga Landu Victor, leader of the Democratic Party for Congress (PDP-ANA), was ongoing at year's end. During the year members of the opposition requested information on the investigation. The government had not provided such by year's end.

Unlike previous years, there were no reports that Front for the Liberation of the Enclave of Cabinda-Armed Forces of Cabinda (FLEC-FAC) forces killed civilians in Cabinda.

No action was taken against FLEC forces responsible for civilian deaths in 2004.

There were no further developments in the 2003 case in which FLEC guerrillas executed a person for collaborating with the government.

There were unconfirmed reports of vigilante violence.

b. Disappearance.—There were no reports of politically motivated disappearances, but persons taken into police and military custody reportedly disappeared in some cases, particularly in Cabinda, Lunda Norte, Lunda Sul, and other rural areas. In May police reportedly arrested eight young persons in the Vila Alice neighborhood of Luanda who subsequently disappeared.

There were no developments in the 2004 disappearance of a municipal Union for the Total Independence of Angola (UNITA) secretary and a member of the UNITA youth wing (JURA) in Benguela.

There were no developments in the 2003 disappearance of two young farmers in Huambo.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were reports that security forces tortured, raped, beat, and otherwise abused persons. Local and international human rights organizations reported that these abuses were widespread.

Abuses by undisciplined and untrained security forces continued to be a problem. While the human rights situation in Cabinda appears to have improved there were unconfirmed reports that undisciplined FAA troops committed acts of violence, including beatings and other forms of intimidation, against the civilian population. The Cabindan military commander issued a public statement that such actions would be punished and there were reports of military legal proceedings throughout the year.

In an attempt to curb illegal diamond mining, the government targeted and expelled an unknown number of Congolese and West African migrant miners. "Operacao Brilhante," continued during the year but was scaled down and mainly involved members of the national police and Ministry of Interior immigration officers. Methods used by the police and immigration officials improved, but physical abuse, corruption, and extortion were commonplace. Prior to expulsion, many were held for a few days in transit camps that lacked sufficient water, sanitation, and shelter. Lack of transport forced many to cover the last 40 miles of the journey to the border on foot.

A report by local human rights activist Rafael Marques and a Portuguese lawyer, Rui de Campos, entitled, *Lundas—The Stones of Death*, included a detailed record of the human rights abuses in the two provinces most affected by "Operacao Brilhante," Lunda Norte and Lunda Sul. Much of the information was about 2004 abuses. However, the report documented that police near Muxinda, Lunda Norte raped a girl in January and that police in Dundo, Lunda Norte killed an inmate attempting to escape in February. The report not only documented human rights abuses due to "Operacao Brilhante", but also highlighted the negative effects of having large, undisciplined, and untrained security forces in these two provinces. Unconfirmed reports of violence, including extrajudicial killings by police and pri-

vate security forces in this area of the country were a serious concern for local human rights activists and the international community.

Police participated in acts of intimidation, robbery, harassment, and killings (see sections 1.a. and 1.f.). However, unlike in past years, authorities did not forcibly move vendors from Luanda markets.

Unlike in previous years, there were no reports of police beating journalists.

Unlike in previous years, there were no reports of police injuring or killing persons while forcibly dispersing demonstrations.

Unlike in previous years, authorities did not harass opposition party members. However, opposition party members complained that police were not effective in protecting them or their facilities (see section 3).

Police and immigration officials at provincial airports harassed NGO workers during the year, extorted money from travelers, and harassed and abused refugees (see sections 2.d. and 4).

There were no developments in the 2004 and 2003 cases of police torture and other cruel, inhuman, or degrading treatment by security forces.

There were reports that police assaulted prostitutes during the year (see section 5).

Landmines continued to result in injuries (see section 1.a.).

Unlike in previous years, there were no reports that FLEC-FAC forces tortured civilians in Cabinda. However, a group claiming to support Cabindan independence beat an elderly Catholic bishop and threatened the newly appointed bishop with death if he took his place in the cathedral.

There were no developments in the 2004 shooting of Vincente Tembo, a UNITA deputy, by unknown persons.

There were no further developments in the 2004 incident in Cazombo, Moxico, where a mob burned and looted 80 homes of known or supposed UNITA supporters.

Prison and Detention Center Conditions.—Prison conditions were harsh and life-threatening. During the year human rights activists reported that prison officials routinely beat and tortured detainees. The national prison system continued to hold approximately five times the number of prisoners for which it was designed. Prisons were severely overcrowded, particularly outside the Luanda prison system. However, unlike in the previous year, prisoners did not die from asphyxiation in overcrowded police cells. In some provinces warehouses and other buildings were used as prison facilities.

Many prisons, lacking adequate financial support from the government, were unable to supply prisoners with basic sanitary facilities, adequate food, and health care. Prisoners depended on families, friends, or international relief organizations for basic support.

Prison officials, who were chronically underpaid, supported themselves by stealing from their prisoners and extorting money from family members. For example, prison guards continued to demand that prisoners pay for weekend passes to which they were entitled. There were reports of prison officials operating an informal bail system, releasing prisoners until their trial date for fees ranging from \$300 to \$1,500 (25 thousand to 127,500 kwanza).

There were unconfirmed reports that prisoners died of malnutrition and disease, especially in provincial prisons. According to the Association for Justice, Peace and Democracy (AJPD), a man died in pretrial custody after his arrest in September.

In June two of four policemen charged with the December 2004 asphyxiation deaths in Mussendi, Lunda Norte were sentenced to seven months' imprisonment (see section 1.d.).

There were reports that prison guards sexually abused female prisoners. Juveniles, often incarcerated for petty theft, were housed with adults and suffered abuse by guards and inmates. Pretrial detainees frequently were housed with sentenced inmates, and prisoners serving short-term sentences often were held with inmates serving long-term sentences for violent crimes. The government announced that a new prison facility for women would be constructed in 2006.

Unlike in the previous year, the government permitted foreign diplomatic personnel and local and international human rights observers to visit prisons during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, security forces did not always respect these prohibitions in practice. The national police were the primary source of abuses during the year, especially in Lunda Norte and Lunda Sul provinces.

Role of the Police and Security Apparatus.—The National Police are under the Ministry of the Interior and are responsible for internal security and law enforcement. The internal intelligence service is directly answerable to the office of the

presidency and is mainly utilized to investigate sensitive state security matters. The FAA is responsible for external security but also has domestic responsibilities; it was reported that the FAA conducted small-scale counterinsurgency operations against the FLEC-FAC in Cabinda.

Other than personnel assigned to elite units, police were poorly paid, and the practice of supplementing income through extortion from the civilian population was widespread. Corruption and impunity remained serious problems. However, a number of officials were charged with crimes stemming from abuse of power during the year. Most complaints were handled within the national police via internal disciplinary procedures leading to formal punishment or dismissal from their position. During the year a number of charges were brought against members of security forces for abusing their power. On April 9 three officers from the Office of Criminal Investigations (DNIC) were charged with trafficking cocaine. On May 4, the Huambo provincial court found the local director of the transit police guilty of shooting at a young boy outside a school. The director received a \$515 (45 thousand kwanza) fine and a two-year suspended sentence. On May 9, a FAA Major in Lunda Norte Province was fined \$115 (10 thousand kwanza) and given a six-month jail sentence for physically abusing two citizens. In June two of four policemen charged with the December 2004 asphyxiation deaths in Mussendi, Lunda Norte were sentenced to seven months' imprisonment (see section 1.c).

During the year, AJPD and other NGOs provided human rights and professional training to police and military. Police also participated in professional training with foreign law enforcement officials from several countries in the region.

Arrest and Detention.—The law provides that a judge or a provincial magistrate must issue an arrest warrant; however, a person caught in the act of committing a crime may be arrested and detained immediately. Arrest warrants also may be signed by members of the judicial police and confirmed within five days by a magistrate. However, security forces did not always procure an arrest warrant before placing individuals in detention. The law provides for the right to prompt judicial determination of the legality of the detention, but authorities did not respect this right in practice. Detainees are informed of the charges against them either during their arrest or during their arraignment. A person may not be held for more than 135 days without trial. The law provides for a maximum of 180 days of investigative detention when an individual is caught in the act of committing a crime punishable by a prison sentence. However, in practice these limits were commonly exceeded. There is a functioning bail system that was widely used for minor crimes. The law permits detainees access to legal counsel; however, this right usually was not respected in practice. The law also allows detainees prompt access to family members; however, this was sometimes ignored in practice or made conditional upon payment of a bribe.

Although the Ministry of Justice was nominally in charge of the prison system, the police continued to arrest and detain persons without bringing detainees to trial.

Although improper detention continued to be a problem, government and NGO attention increased and NGOs were given better access to information within the judicial system. Human rights organizations, such as the AJPD, continued their efforts to secure the release of illegally detained individuals. During the year AJPD handled more than 400 cases of illegal detention, and were able to secure the release of approximately 30 cases.

According to the independent media, security forces continued to illegally detain individuals in Cabinda accused of collaborating with FLEC. As part of "Operacao Brilhante," expelled miners and their families were detained in transit centers until their removal from the country (see section 1.c.).

Police arrested demonstrators during the year (see section 2.b.).

An insufficient number of judges and poor communication between various authorities led to prolonged pretrial detention. In July the president of the Supreme Court stated that approximately 50 percent of those in prisons were awaiting trial. It was common for inmates to wait approximately one to two years for trial. In many cases police beat and then released detainees rather than prepare a formal court case.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the judiciary was inefficient, corrupt, and subject to executive influence. The judiciary functioned poorly at the provincial and municipal levels and did not ensure due process for criminal or civil cases. In practice the court system lacked the means and political support to assure its independence. During the year the government continued to rebuild courts and train new magistrates and prosecutors; however, in civil and criminal provincial courts, there was often only one judge to cover all cases in the province. Judicial corruption, especially at the administrative

level, was a concern; however, recent changes, such as the implementation of a new court filing system and the random assignment of judges, ensured greater transparency in the judicial system.

The court system consists of the Supreme Court at the appellate level as well as municipal and provincial courts of first instance under the authority of the Supreme Court. The Supreme Court serves as the appellate court for questions of law and fact. The president has the power to appoint supreme court justices without confirmation by the parliament. The law provides for judicial review of constitutional issues by the Supreme Court until the constitutional court is established.

There were long delays for trials at the Supreme Court level. Trials for political and security crimes are handled exclusively by the Supreme Court; however, there were no such trials during the year. The criminal courts have a large backlog of cases that caused major delays in scheduling hearings. The law and rules of procedure underwent reforms during the year. In January the president created a legal reform commission. Working with UN support this commission was tasked with the reform of the legal structure, including the entire penal code, which closely mirrors the pre-1974 Portuguese law. The commission's final report was not complete at year's end; however, a high-level official at the Ministry of Justice noted that the commission had proposed new versions of a number of legal statutes and had forwarded them to the National Assembly. The Ministry of Justice (MOJ) continued efforts to update case management systems and train law clerks. Judges were often not licensed lawyers; however, the MOJ increased efforts during the year to recruit and train lawyers to serve as magistrates. The MOJ is also working to improve the administration of justice at the provincial level by increasing the number of municipal courts and developing a system of mediation.

Due to the lack of judicial infrastructure in many provinces and municipalities, traditional or informal courts were utilized. Traditional leaders (*sobas*) were called upon to hear and decide local cases. These courts were expected to continue until the formal legal system is rebuilt. They did not provide citizens with the same rights to a fair trial as the formal legal system; instead the community in which they were located established their rules.

Both the National Police and the FAA have internal court systems. While members of these organizations can be tried under their internal rules and regulations, all cases that include violations of criminal or civil laws are under the jurisdiction of provincial courts.

Trial Procedures.—By law trials are public, but each court has the right to close proceedings. Juries are not used. Defendants have the right to be present and to consult with an attorney in a timely manner. An attorney is provided at public expense if a defendant faces serious criminal charges, but outside of Luanda the public defender may not be a trained attorney. Defendants do not have the right to confront their accusers; however, defendants can question witnesses against them and/or present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. The government did not always respect these rights in practice. Defendants are presumed innocent and have the right to appeal.

A court for children's affairs, under the MOJ, functions as part of Luanda's provincial court system (see section 5).

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, the government did not always respect citizens' privacy rights. Legal requirements for search warrants occasionally were disregarded, most often in police searches for illegal vendors and periodic sweeps of public markets.

Citizens widely believed that the government maintained surveillance of certain groups, including opposition party leaders and journalists.

The situation in Cabinda continued to improve, but serious incidents were reported. The denial of access to agricultural areas hampered citizen's ability to fully utilize Cabinda's agricultural areas. Government forces in Cabinda reportedly attacked women in their homes, while they were working in the fields, near military camps, and during searches of homes.

The government continued to demolish informal squatter housing. In August a number of families were removed from their homes in Boa Vista, a neighborhood of Luanda. In October squatters who had taken over a building near the National Stadium were moved to the Zango and Caop communities outside Luanda. In November police demolished 300 homes in the Luandan neighborhoods of Cambamba I and II, "28 de Agosto," and Banga We. Residents of these neighborhoods clashed with police and several individuals, including human rights activists, were arrested

(see section 2.b). In many instances the government offered new residences to displaced families; however, the communities built to receive these families were up to 15 miles outside Luanda. Unlike in previous years, there were no reports of discrimination in land distribution nor were there reports that demobilized soldiers and former UNITA soldiers moved away from Cazombo, Moxico, for safety reasons.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, at times the government restricted these rights in practice. Unlike in the previous year, there were no reports that police, especially outside Luanda, beat or detained journalists. Journalists practiced self-censorship.

Both radio and print media criticized the government openly and at times harshly. During the year there was increased media attention on the upcoming elections, corruption, economic mismanagement, and opposition politics. Unlike in previous years, there were no reports that journalists were investigated for reporting on sensitive issues. While the government continued to limit access by independent journalists to certain events and officials, independent journalists received moderately increased access during the year.

The largest media outlets were state-operated and carried little criticism of government officials, although they often highlighted government program deficiencies. The government-owned and operated *Jornal de Angola* was the only national daily newspaper. There were 12 private weekly publications, including 4 smaller provincial weeklies in the southern provinces. The government generally tolerated criticism of its policies and actions in the independent media.

The government-owned press often criticized independent journalists and opposition leaders, but independent journalists were able to freely respond to these criticisms.

There were five commercial radio stations, including the Catholic Church's Radio Ecclesia and Radio Lac Luanda, which openly criticized government policies and highlighted poor socioeconomic conditions. Although Radio Ecclesia broadcasted throughout the country via the Internet, the government continued to refuse to approve a nationwide FM broadcast network. Government-owned and -operated Angolan National Radio was the only radio station with the capacity to broadcast throughout the country other than over shortwave. The only television station was the government Angola Public Television, which broadcasted in Luanda and most provincial capitals. Satellite television was available, but beyond the financial reach of many citizens.

Foreign journalists must receive authorization from the Ministry of the Interior to meet government officials or to travel within the country. Foreign journalists also must obtain work visas issued in their home countries to enter and report on the country.

The Media Institute of South Africa reported that in August police confiscated and deleted images from a camera taken from a local independent press photojournalist who was photographing a Luandan neighborhood.

There were no developments in the 2004 cases in which government authorities harassed journalists.

Depending on the issue, the minister of social communication, the spokesman of the presidency, the national director of information, and the directors of state-run media organizations had policy and censorship authority. The government used its control of the government media and connections to independent media sources to influence public opinion.

In May independent media reported that the vice-minister of social communication warned the staff of the government-owned *Jornal de Angola* not to give equal coverage to opposition parties. Debate on this issue ended when the minister of social communication announced that all parties should be granted equal coverage by all media outlets.

Defamation of the president or his representatives is a criminal offense, punishable by imprisonment or fines. Factuality is not an acceptable defense against defamation charges; the only allowable defense is to show that the accused did not produce the actual material alleged to have caused harm. In February the Supreme Court overturned the 2004 conviction for defamation of the editor of the independent weekly *Semanario Angolense*. He was seeking compensatory damages at year's end.

There were no updates on the cases of journalists arrested by the government in 2003 on charges of slander.

The law permits the government to classify information. If classified material is published, the government can demand information regarding the source of the leak and prosecute those who published the classified information. There were

unconfirmed allegations that the government used this law to classify information unnecessarily, preventing the public from obtaining information on government decision-making.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for the right of assembly; however, the government at times restricted this right in practice.

Unlike previous years, the police did not use excessive force to break up demonstrations.

The law requires an application for permission three days before public or private assemblies are to be held. Participants are liable for “offenses against the honor and consideration due to persons and to organs of sovereignty.” Applications for progovernment assemblies routinely were granted without delay; however, applications for protest assemblies sometimes were denied, usually based on the timing or venue selected. During the year, official tolerance for public protest increased, although officials were not consistent in permitting such protests and procedures for obtaining permissions were confusing and not standardized across the government.

In August the government denied a permit to a student organization protesting problems in the higher education system. When the protest was held without a permit, the police arrested members of this organization. Those members arrested where released within 24 hours. In November the police arrested and released within a week nine members of the Party for the Support of Democracy and Progress in Angola for distributing antigovernment pamphlets. Also in November the police violently arrested 12 human rights activists and neighborhood residents during protests due to the planned demolition of homes in neighborhoods surrounding Luanda. All protestors were acquitted by judicial proceedings that found their charges baseless the following day (see section 1.f.). In December the police arrested and released on the same day six members of Mpalabanda, the civic association of Cabinda, during an unauthorized protest in Landana, Cabinda Province.

There were no developments in the 2004 and 2003 cases in which government authorities used excessive force to break up demonstrations in Luanda.

Freedom of Association.—The law provides for the right of association, and the government generally respected this right in practice. The government may deny registration to private associations on security grounds. Although the government approved most applications, including those for political parties, the MOJ continued to deny a formal certificate of registration to the local human rights group AJPD (see section 4). Even without a formal certificate of registration, AJPD and other NGOs were not prevented from conducting activities.

Unlike in past years, the government did not arbitrarily restrict associations that it considered subversive by refusing to grant licenses for organized activities and through official harassment. Opposition parties were permitted to organize and hold meetings during the year; however, they reported occasional harassment by local officials.

There were no developments or confirmations of the 2004 case in which UNITA members complained of being beaten to deter their attendance at a political rally.

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

Religious groups must register with the MOJ and the Ministry of Culture. Colonial-era statutes ban non-Christian religious groups; however, they were not enforced during the year. In 2004 the legislature approved a law establishing stricter criteria for the registration of religious groups to curb the growth of cults, although the law did not have any effect on the registration process. During the year the government passed a law to prevent unregulated organizations posing as religious institutions to gain relief from import duties and other taxes. Major religious organizations supported the legislation.

A total of 17 religious groups in Cabinda remained banned during the year on charges of practicing traditional medicine among the groups’ members.

Government officials continued to publicly state their opposition to Muslim proselytizing.

Societal Abuses and Discrimination.—There were no reports of anti-Semitic acts. The Jewish community was estimated to be approximately one hundred persons.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, the government at times restricted these rights. Extortion and harassment at government security checkpoints

in rural and border areas interfered with the right to travel. Police harassed returning refugees at border checkpoints. The government restricted access to areas of Cabinda that it deemed insecure; however, during the year, previously inaccessible areas in that province were opened to travel. The government also restricted access to areas of the country designated as diamond concessions. Citizens in Lunda Norte and Lunda Sul provinces, both containing large diamond concessions, were regularly denied access to these restricted areas.

Extortion by police was routine in Luanda, pervasive on major commercial routes, and served as a principal source of income for the police. As part of “Operacao Brilhante,” security forces harassed expelled miners and their families as they crossed the border into the Democratic Republic of the Congo (see section 1.c.).

Landmines remaining from the civil war were a major impediment to the freedom of movement (see section 1.a.).

Foreign journalists must obtain authorization from the Ministry of the Interior to travel within the country.

Immigration officials harassed and extorted money from travelers.

The law prohibits forced exile, and the government did not employ it.

Internally Displaced Persons (IDPs).—During the year a joint assessment by the government and the UN found that approximately 91 thousand IDPs remained unsettled. Those yet to return to their homes noted that a lack of physical infrastructure, landmines, and a lack of governmental infrastructures were a major deterrent to return.

The Ministry of Assistance and Social Reinsertion has primary responsibility for returnees and remaining IDPs, as well as continued housing and resettlement programs; however, these efforts remained inadequate. Provincial governments have primary responsibility for resettlement, ensuring safe, voluntary resettlement to areas cleared of mines and with access to water, arable land, markets, and adequate state administration. While areas of return were still given extra resources, conditions in these areas mirrored the difficult situation throughout the country. A March Human Rights Watch (HRW) report concluded that basic services and protections for IDPs and returning refugees were not made available (see section 4). Unlike in previous years, there were no confirmed reports of forced relocation of IDPs.

While there were continuing reports that border officials harassed, sexually abused, and charged refugees illegal taxes at border posts, such reports diminished during the year. However, the UN office of the High Commissioner for Refugees (UNHCR) reported an increase in crimes against returnees in Moxico Province; incidents included physical assaults, confiscation of goods, and demands for bribes.

Protection of Refugees.—The law provides for the granting of refugee status and asylum to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government did not provide temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 protocol.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

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

The law provides citizens with the right to change their government peacefully; however, in practice citizens did not elect officials at all levels.

Elections and Political Participation.—In 1992 the first multiparty presidential elections were held. Popular Movement for the Liberation of Angola (MPLA) president Jose Eduardo dos Santos won a plurality of votes cast. Local and international observers declared the election to be generally free and fair. The country’s first post-civil war elections were expected in 2006.

On August 3, the parliament passed the final component of the package of electoral laws; all but one of the seven laws passed by consensus. High-level government officials, including the president, worked directly with opposition parties, including those without seats in parliament, on issues such as election law. Independent domestic NGOs claimed they had positively influenced the final election laws.

On August 15, an 11-member national electoral commission was established and began meeting. A number of commission members were government officials, including two supreme court judges. Local opposition party members complained that the ruling MPLA has majority membership in this body.

Authorities launched a civil registration campaign to ensure that citizens had access to the necessary identification papers prior to the electoral registration. Civil society and political parties complained that this campaign was undertaken in a manner that unfairly benefited the party in power. Logistical and resource constraints also hampered this process.

Political power is concentrated in the president and the Council of Ministers, through which the president exercises executive power. The council can enact laws, decrees, and resolutions, which mean it can assume most functions normally associated with the legislative branch. Although the constitution established the position of prime minister, the president also filled the position from 1998 to 2002. In 2002 the president named former Interior Minister Fernando Dias dos Santos "Nando" (no relation to the president) as prime minister. While opposition deputies held 43 percent of parliamentary seats and substantive debates sometimes took place, especially regarding the electoral law package, few mechanisms existed to check the power of the MPLA majority or defeat legislation supported by the executive branch.

Opposition parties, including the UNITA and the Social Renovation Party (PRS), complained of political intolerance by MPLA political activists. Several small, but violent, clashes occurred early in the year. In March, 28 people were injured during an event held on the 39th anniversary of UNITA in Mavinaga, Cuando Cubango Province. It was reported in April that MPLA supporters burnt eight homes of demobilized former UNITA combatants in Benguela Province. In March PRS claimed that its supporters were expelled from two municipalities in Moxico Province. In May the MPLA held a series of bilateral meetings with UNITA and other opposition parties to discuss issues relating to the upcoming elections, including acts of political harassment.

There were more than 120 registered opposition parties, of which 11 received a public subsidy based on their representation in the parliament. The majority of opposition parties had limited national constituencies.

There were 35 women in the 220-seat parliament, and 10 women in the 41-member cabinet, including 2 ministers.

There were seven members of minorities in parliament, and three members of minorities in the cabinet.

Government Corruption and Transparency.—Government corruption was widespread, and accountability was limited. However, the government took steps to increase transparency and reduce state expenditures not reflected in the official budget. The Ministry of Finance (MOF), with the help of the World Bank, implemented a financial tracking system that virtually eliminates off-budget spending by the central government ministries and worked to extend this system to the provinces and eventually to state-owned companies. Seminars led by the government on the proper management of government funds were held at the national and provincial level. The government also published oil revenue data on the MOF's website and has made details of an upcoming oil licensing round available to the public.

Parastatals, most notably the state oil company SONANGOL, were required to report their revenues to the central bank and the MOF, but information gaps and inconsistent accounting practices remained a concern. SONANGOL allegedly arranged another \$2 billion (174 trillion kwanza) loan during the year on behalf of the government, thereby continuing its role as an extra-governmental merchant banker. SONANGOL and ENDIAMA, the state diamond marketing company, had regular audits conducted by international accounting firms. Nonetheless, serious transparency issues remained in the diamond industry, particularly regarding allocation of exploration and production rights.

Business practices continued to favor those connected to the government. Petty corruption among police, teachers, and other government employees was widespread. In December the Audit Court found that 5 high-level officials from the Ministry of External Relations, including the Secretary General and the Director of Administration and Budget Management, had taken more than \$9 million (801 million kwanza) from the ministry. These government officials were asked to reimburse the government for the funds in question and to pay fines as penalty for the misuse of government funds. The audit court does not have the legal authority to collect any fines.

The law provides public access to government information. Access to these resources increased during the year; however, the government's technical capabilities affected the ability to provide the information.

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

A variety of domestic and international human rights groups generally operated without government restrictions, investigating and publishing their findings on

human rights cases. Government officials were somewhat cooperative and responsive to their views.

The government has laws that, if implemented, could restrict NGOs by giving the government the right to determine where and what projects each NGO may implement and requiring them to provide banking and financial details. The government did not exercise these rights during the year.

There were more than 100 international NGOs operating in the country and approximately 350 domestic NGOs, of which an estimated 100 worked on human rights activities. Local NGOs actively promoted human rights during the year by documenting prison conditions, providing free legal counsel, and lobbying government officials. In January the Angolan Bar Association called for the enforcement of laws that ban representatives of domestic NGOs who are not lawyers from pleading cases in the country's courts. Given the lack of lawyers, especially in the provinces, this law could diminish citizens' access to legal representation.

AJPD continued its efforts to obtain a formal certificate of registration from the MOJ. AJPD gained registration due to a clause in the registration law that gives legal status if the authorities do not reject the application within 80 days. The AJPD's case to obtain the certificate continued in the Supreme Court at year's end.

There were no further developments in the 2004 case of the expulsion of a foreign NGO worker from Lumbala N'guimbo, Moxico.

Several international human rights organizations had a permanent presence in the country, including the International Committee of the Red Cross and the UN Human Rights Commission.

The UN Human Rights Commission continued joint efforts with the government during the year to strengthen the MOJ's provincial offices of human rights. In training sessions held in each of the 18 provinces, government officials, UN officials, human rights activists, and citizens met to address human rights protections in their communities.

In March the special representative of the secretary general for human rights defenders, Hina Jilani, released a report of her 2004 visit to the country. The government called the report "interference in domestic affairs."

Representatives of HRW and Amnesty International visited the country during the year. In March HRW released a report on the conditions facing returnees to the country (see section 2.d.).

During the year UN humanitarian agencies maintained large-scale operations for food security programs, repatriation and reintegration activities, and development projects.

In August the parliament confirmed the country's first human rights ombudsman. The implementing regulations for the office were still pending. Local and international organizations criticized the government for the lack of civil society involvement in the selection of the ombudsman.

The parliament's committee on human rights conducted visits to domestic and international prisons, held hearings on human rights issues, and visited areas of concern throughout the country.

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

The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, the government did not enforce these prohibitions effectively. Violence and discrimination against women, child abuse, child prostitution, trafficking in persons, and discrimination against persons with disabilities and indigenous people were problems.

Women.—Violence against women was widespread. Violence against women, including spousal abuse, is not specifically illegal, but it was prosecuted under already existing provisions of the penal code. Police were more likely to view the abuse as a family matter, not a violation of the law. Credible evidence indicated that a significant proportion of homicides were perpetrated against women, usually by spouses. The Ministry of Women and Family Affairs reported receiving an average of 20 domestic violence cases a month. However, many such cases likely were unreported. The government continued its efforts to reduce violence against women and to improve their status. Domestic violence may be prosecuted under rape, assault, and battery laws. The Ministry of Women and Family Affairs operated a program with the Angolan Bar Association to give free legal assistance to abused women; the ministry also had family counseling centers open to help families cope with domestic abuse.

Rape, including spousal rape, is illegal and is punishable by up to 8 years' imprisonment. The law treats sex with a minor under the age of 12 as nonconsensual; however, limited investigative resources and an inadequate judicial system prevented prosecution of most cases. Police were reluctant to prosecute these cases be-

cause of the low level of forensic capabilities. The Organization of Angolan Woman has a shelter that offers special services for rape victims.

Prostitution is illegal, but the prohibition was not consistently enforced. Due to poor economic conditions, many women engaged in prostitution. The Ministry of Women and Family Affairs had a shelter that is open to former prostitutes. According to an independent newspaper, in June police reportedly sexually abused prostitutes after taking them to a police station for booking.

Sexual harassment was common. Sexual harassment is not specifically illegal; however, such cases may be prosecuted under assault and battery and defamation statutes.

Under the law women enjoy the same rights as men; however, societal discrimination against women remained a problem, particularly in rural areas. There were no effective mechanisms to enforce child support laws, and women bear the major responsibility for raising children. The Ministry of Women and Family Affairs has a National Office for the Rights of Women.

The law provides for equal pay for equal work; however, women generally were relegated to low-level positions in state-run industries and in the private sector. The Ministry of Women and Family Affairs conducted a skills training program for women.

Children.—The government was committed to the protection of children's rights and welfare, but lacked the human and logistical resources necessary to provide the necessary programs. The National Institute for Children (INAC) had primary responsibility for children's affairs.

Education was free and compulsory until the sixth grade, but students often had to pay significant additional expenses, including for books and supplies. Teachers were chronically unpaid and allegedly often demanded unofficial payment or bribes from students. Most of the educational infrastructure was damaged during the civil war and remained unrepaired. Schools lacked basic equipment and teaching materials. The ministries of education and culture functioned poorly due to a lack of resources and administrative capacity. The UN International Children's Emergency Fund (UNICEF) reported that 56 percent of 6- to 9-year-olds attended school, but only 6 percent of 10- to 11-year-olds. Most children only completed the sixth grade. According to the UN Educational, Social, and Cultural Organization, there was a gender gap in the enrollment rate favoring boys over girls.

The government provides free medical care for children with identity documents at the existing pediatric hospital in Luanda. Boys and girls had equal access. In many areas, formal health care was limited or nonexistent.

Child abuse was widespread. Physical abuse was commonplace within the family and was largely tolerated by local officials. INAC had an information campaign targeting violence against children.

Legal age for marriage, with parental consent, is 15. This law was not effectively enforced, and the traditional age of marriage coincided with the onset of puberty.

Human rights abuses due to accusations of sorcery and wizardry, especially against children, were a major concern during the year. Individuals blamed the use of charms or other forms of witchcraft for their personal misfortunes. In some cases it was reported that children were killed during "exorcism" rituals performed by local religious leaders. These reports, in the past believed to be confined to the northern part of the country, have extended to the neighborhoods surrounding Luanda. Those cases reported in the media were still under police investigation at year's end. The government's INAC, local and operated programs to change the life-threatening "exorcism" rituals performed by local church leaders. The government began to crack down on these largely unregistered religious organizations, but was unable to effectively reduce the influence of traditional beliefs.

There were reports of trafficking in children (see section 5, Trafficking).

Child prostitution is illegal; however, there were reports of child prostitution in Santa Clara, on the border with Namibia in Cunene Province. Children reportedly were crossing the border to engage in prostitution with local truck drivers; these children were reported to be engaged in prostitution for survival without third party involvement.

Sexual relations with a child under 12 years of age are considered rape. Sexual relations with a child between the ages of 12 and 15 may be considered sexual abuse, with convicted offenders liable for up to 8 years in prison.

The government, assisted by UNICEF, continued implementation of its post-conflict child soldier protection strategy. As outlined in the strategy, those designated as child soldiers were given access to special resources, including skills training, assistance with civil registration, and access to special social assistance; they were assured they would not be recruited or reenlisted in the military.

Child labor occurred and was largely found in the informal sector (see section 6.d.).

The government's INAC was responsible for child protection, but it lacked the technical capacity to work out the assistance of international NGOs and donors. The government publicized the problems of street and homeless children during the year, but did not develop any programs to assist them. The government estimated that there were approximately 1,500 street children in Luanda; however, international NGOs working on children's issues believed this number was understated. Conditions in government youth centers were poor; most homeless children between age 5 and 16 slept on city streets. They shined shoes, washed cars, and carried water, and many resorted to petty crime, begging, and prostitution to survive.

Trafficking in Persons.—The law prohibits slavery; however, there are no specific laws against trafficking in persons. There were unconfirmed reports that persons were trafficked from and within the country.

Laws criminalizing forced or bonded labor, prostitution, pornography, rape, kidnapping, and illegal entry are used to prosecute trafficking cases. The minimum sentence for rape is seven years' imprisonment, and sentences for other related offenses carry a maximum of life imprisonment. The number of prosecutions directly related to trafficking during the year was not available.

The government attempted to monitor its borders, but lacked resources to do so effectively. Efforts by UNICEF and supported by the government strengthened immigration controls. Immigration services at the international airport in Luanda were managed more effectively than provincial border posts and required proper documentation for children flying internationally.

The extent of trafficking in persons was unknown, but was not believed to be significant. There were unconfirmed reports that a small number of children were trafficked out of the country to South Africa or Europe during the year. Homeless and orphaned children were the groups most vulnerable to trafficking.

Methods used by traffickers to obtain and transport victims were unknown, and it was not believed that the small number of traffickers working in the country was organized.

The Ministry of Justice ended its campaign of free child registration in late 2004. A conference on child registration was held in September for all Portuguese-speaking countries. The government operated facilities throughout the country for abandoned and abducted children; however, the facilities were underfunded, understaffed, and overcrowded in many cases. A Catholic-based center in Namacumbe, near the Namibian border, assisted victims of trafficking to reintegrate into the community.

The government provides basic levels of assistance for trafficking victims on an ad hoc basis, especially within the city of Luanda. Local social welfare agencies provided the basic necessities until a permanent solution could be reached. These types of formal programs did not exist outside of Luanda, nor did the government have a system of shelters that are used specifically for trafficking victims.

Immigration services and INAC played significant roles in antitrafficking efforts, including implementing provincial level training which also focused on child prostitution. However, no single ministry has direct responsibility for trafficking.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, but the government did not effectively enforce these prohibitions. The number of persons with disabilities included more than 80 thousand landmine victims. Handicap International estimated that persons with disabilities made up 10 percent of the population. There is no legislation mandating accessibility for persons with disabilities to public or private facilities, and it was difficult for persons with disabilities to find employment or participate in the education system. The Ministry of Assistance and Social Reinsertion had an office for issues facing persons with disabilities; however, given the number of landmine victims, several government entities supported programs assisting individuals disabled by mine accidents.

Indigenous People.—Between 1 and 2 percent of the population were Khoisan and other hunter-gatherer tribes who are linguistically distinct from their Bantu fellow citizens. At least 3,400 San people lived in 72 small-dispersed communities in Huila, Cunene, and Cuando Cubango provinces. San communities continued to suffer from social exclusion, discrimination, and economic exploitation. Greatly reduced access to land and natural resources and insecure and limited land rights eroded the San's former hunter-gatherer livelihoods and exacerbated ethnic tensions with neighboring groups. Hunter-gatherer communities generally did not participate actively in the political or economic life of the country and subsequently had little ability

to influence government decisions concerning their interests. Adequate protection for the property rights of traditional pastoral communities was a concern. A land reform law that could address this issue remained under discussion at year's end.

Other Societal Abuses and Discrimination.—The law criminalizes sodomy, but most citizens tolerated homosexuality. HIV/AIDS was openly discussed. President Dos Santos inaugurated a new building for the National Institute for HIV/AIDS and was supportive of HIV/AIDS awareness campaigns. Discrimination against homosexuals and those with HIV/AIDS was implicit and of an informal nature. A law that criminalizes discrimination against those with HIV/AIDS has been passed, but was not implemented by year's end. There were no reports of violence against those with HIV/AIDS. Local NGOs have formed to combat stigmatization and discrimination against people living with HIV/AIDS.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and to join unions without previous authorization or excessive requirements; however, the government did not always respect these rights in practice. Restrictions on civil liberties, such as freedom of speech and freedom of assembly, prevented labor activities not approved by the government (see sections 2.a. and 2.b.).

The law prohibits antiunion discrimination and stipulates that worker complaints be adjudicated in regular civil courts. Under the law, employers found guilty of antiunion discrimination are required to reinstate workers who have been dismissed for union activities. In practice the judicial system did not enforce these rights.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, but the government did not always protect this right in practice. The law provides for collective bargaining, and workers exercised this right in practice. The Ministry of Public Administration, Employment, and Social Security (MPAESS) set wages and benefits on a semi-annual basis (see section 6.e.).

The law provides for the right to strike but regulates such actions. The law prohibits lockouts and worker occupation of places of employment and provides protection for nonstriking workers. It prohibits strikes by armed forces personnel, police, prison workers, and fire fighters. The Ministry of Labor has a hot line for those that feel their rights are being violated. The law does not effectively prohibit employer retribution against strikers, and it also permits the government to force workers back to work for breaches of worker discipline and participation in unauthorized strikes. Workers exercised their right to strike during the year. The number of strikes and industries affected significantly increased during the year.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, but there were reports that such practices occurred (see section 5). The MOJ has effective enforcement mechanisms for the formal economic sector; however, the majority of labor law violations occurred outside the official labor market, which was not subject to legal enforcement.

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor was restricted under the law; however, child labor, especially in the informal sector, remained a problem. The legal minimum age for employment is 14. Children between the ages of 14 and 18 may not work at night, in dangerous conditions, or in occupations requiring great physical effort. The government prohibits children younger than 16-years-old from factory work, but these provisions were rarely enforced. Most work done by children is in the informal sector. Children worked on family farms, as domestic servants, and as street vendors. Family-based child labor in subsistence agriculture was common. Children under 12 years of age worked for no reimbursement for their families and in apprenticeships.

Children were reportedly trafficked for sexual exploitation and child prostitution (see section 5).

The inspector general of MPAESS is responsible for enforcing labor laws, and child labor law enforcement is under the jurisdiction of the courts; however, the inspector general and the court system did not provide adequate protection for children in practice. A court for children's affairs was part of Luanda's provincial court system; however, these courts were still not operational in the provinces at year's end. There is no formal procedure for inspections and investigations into child labor abuses outside of the family law system, although private persons can file accusations of violations of child labor laws.

e. Acceptable Conditions of Work.—During the year MPAESS raised the minimum wage to the equivalent of \$60 (5,400 kwanza) per month, which did not provide a decent standard of living for a worker and family. As a result, most wage earners

held second jobs or depended on the informal sector, subsistence agriculture, or support from abroad to augment their incomes.

The standard workweek is 40 hours with 26 hours of rest per week. There is a limit of 80 hours work per week. Premium pay for overtime is time and a half up to 30 hours, 1.75 from 30 to 40 hours. There is a prohibition on excessive compulsory overtime of no more than 2 hours a day, 40 hours a week, or 200 hours a year. These standards were not effectively enforced, unless the employees requested that the law be followed. Given the overcrowded court system and tight labor laws, a threat from an employee on a labor law issue (in the formal sector) was usually heeded, before the complaint was taken to the courts.

The government has occupational health and safety standards; however, the Ministry of Labor's office of the inspector general did not generally enforce these standards effectively. Nonetheless, during the year the inspector general cited and fined 67 businesses for health and safety violations. Workers have the right to remove themselves from situations that endangered health or safety without jeopardy to their employment, but it was not exercised in practice.

BENIN

The Republic of Benin is a constitutional democracy with a population of 7.2 million. In 2001 President Mathieu Kerekou was inaugurated for a second consecutive five-year term in multiparty elections that observers generally viewed as free but not entirely fair. The March 2003 parliamentary elections, which were generally free, fair, and transparent, resulted in a loss of seats by the opposition, which holds 18 of 83 seats. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, problems in several areas were exacerbated by poverty and official corruption. The following human rights problems were reported:

- police use of excessive force
- vigilantism and mob justice
- harsh prison conditions
- arbitrary arrest and detention
- prolonged pretrial detention
- judicial corruption
- forcible dispersion of demonstrations
- violence and societal discrimination against women
- female genital mutilation (FGM)
- trafficking and abuse of children, including infanticide
- child labor, including forced and compulsory child labor

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, police used excessive force on occasion, which resulted in deaths (see section 2.b.).

On February 25, police killed two persons and wounded several others when an operation to evict persons suspected of illegally occupying a building turned into a violent confrontation. No action was taken against the responsible police.

On September 14, prison officers killed one prisoner and injured nine others during an attempted prison break. Although no investigation was conducted, observers believed police used appropriate force.

During the year incidents of mob justice continued to occur, in part due to the perceived failure of local courts to adequately punish criminals. Such cases generally involved mobs killing or severely injuring suspected criminals, particularly thieves caught in the act. On March 3, for example, a mob intercepted five suspected criminals attempting to hijack a foreign embassy car and burned one of the five to death. Although some of these incidents occurred in urban areas and were publicized in the press, the government made no concerted attempt to investigate or prosecute those involved, and police generally ignored vigilante attacks.

b. Disappearance.—There were no reports of politically motivated disappearances. Some trafficked children were kidnapped by force during the year (see section 5).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were credible reports during the year that police sometimes beat those in custody.

Police forcibly dispersed demonstrations during the year, resulting in one death and numerous injuries (see section 2.b.).

Police also entered homes without warrants and beat the occupants (see section 1.f.).

The government continued to make payments to victims of torture under the former military regime.

Mob justice resulted in deaths and injuries (see section 1.a.).

Prison and Detention Center Conditions.—Prison conditions continued to be extremely harsh. Overcrowding and lack of proper sanitation and medical facilities posed a risk to prisoners' health. According to the justice ministry, the country's eight civil prisons at times were filled to more than three times their capacity. The prison diet was inadequate, and malnutrition and disease were common. Family members were expected to provide food for inmates to supplement prison rations.

Juveniles at times were held with adults. Pretrial detainees were held with convicted prisoners; however, they were not held with the most violent convicts or those subject to the death penalty.

The government permitted prison visits by human rights monitors; nongovernmental organizations (NGOs) and other agencies continued to visit prisons.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, at times the authorities did not respect these prohibitions in practice.

Role of the Police and Security Apparatus.—The police, under the Ministry of Interior, have primary responsibility for enforcing law and maintaining order in urban areas; the gendarmerie, under the Ministry of Defense, performs the same function in rural areas. The police were inadequately equipped, poorly trained, and ineffective, particularly in their failure to prevent or respond to mob justice. The government continued to address these problems by recruiting more officers, building more stations, and modernizing equipment; however, serious problems remained, including widespread corruption and impunity. During 2004 several police officers were dismissed for corruption.

Arrest and Detention.—The law requires arrest warrants and prohibits detention for more than 48 hours without a hearing by a magistrate, who must authorize continued detention. Detainees must be brought before a judge within 48 hours of arrest. After examining a detainee, the judge has 24 hours to decide whether to continue the detention or release the individual. Defendants awaiting a verdict may request release on bail; however, the attorney general's office must agree to the request. Suspects have the right to an attorney, but only after being brought before a judge. Warrants authorizing pretrial detention were effective for six months and could be renewed every six months until the suspect was brought to trial. The government provided counsel in criminal cases only.

Police arbitrarily arrested numerous demonstrators during the year (see section 2.b.).

There were no reports of political detainees.

There were credible reports that authorities exceeded the legal limit of 48 hours of detention in many cases, sometimes by as much as a week. Authorities often used the practice of holding a person indefinitely "at the disposition of" the public prosecutor's office before presenting the case to a magistrate. Approximately 75 percent of persons in prison were pretrial detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, but the government did not always respect this provision in practice. The judiciary remained inefficient in some respects and susceptible to corruption at all levels. Unlike in previous years, no action was taken against corrupt judicial employees.

The president appoints career magistrates as judges in civil courts, and the constitution gives the Ministry of Justice administrative authority over judges, including the power to transfer them. Inadequate facilities, poorly trained staff, and overcrowded dockets delayed the administration of justice.

Civilian courts operated on national and provincial levels, and there were two courts of appeals. The Supreme Court was the court of last resort in all administrative and judicial matters. The constitutional court determined the constitutionality of laws, disputes between the president and the National Assembly, and disputes regarding presidential and legislative elections. It also had jurisdiction in human rights cases. During the year the constitutional court declared unconstitutional certain provisions of the electoral law bill passed on July 18, noting those provisions could potentially exclude some candidates. There was also a high court of justice to

try the president and ministers for crimes related to their professional responsibilities.

Trial Procedures.—The law provides for the right to a fair trial; however, judicial inefficiency and corruption impeded this right.

The legal system is based on French civil law and local customary law. A defendant is presumed innocent and has the right to be present at trial and to representation by an attorney, at public expense if necessary. In practice, the court provided indigent defendants with court-appointed counsel upon request. A defendant also has the right to confront witnesses and to have access to government-held evidence. Defendants can appeal criminal convictions to the court of appeals and the Supreme Court, after which they may appeal to the president for a pardon. Trials were open to the public, but in exceptional circumstances the president of the court may decide to restrict access to preserve public order or to protect the parties.

Military disciplinary councils dealt with minor offenses by members of the military services but had no jurisdiction over civilians.

Political Prisoners.—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, security forces entered private homes and beat the occupants during the year. The law requires police to obtain a judicial warrant before entering a private home, and they usually observed this requirement in practice, but there were exceptions.

On June 7, soldiers (possibly gendarmes) without search warrants entered homes in Fidjrosse, Cotonou, and beat the occupants, including women and children. The soldiers claimed it was retaliation for the alleged beating of their colleagues by the town's residents. No action was taken against the responsible soldiers.

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. During the year there were reports that the government attempted to suppress unfavorable articles.

The law provides for prison sentences involving compulsory labor for certain activities related to the exercise of the right of free expression; this law is directed against threats to public order or calls to violence but is vaguely worded and susceptible to abuse.

Unlike in the previous year, there were no reports that the government ordered the removal of billboards it found objectionable.

The independent media were active and expressed a wide variety of views without restriction. These publications criticized the government freely and frequently, but the effect on public opinion was limited because of their urban concentration and widespread illiteracy. A nongovernmental media ethics commission (ODEM) continued to censure some journalists during the year for unethical conduct, such as reporting falsehoods or inaccuracies or releasing information that was still under embargo. During the year ODEM charged 20 newspapers for violating its professional and ethical standards.

The government continued to own and operate the most influential media by controlling broadcast range and infrastructure. The majority of citizens were illiterate, lived in rural areas, and generally received their news via radio. The governmental Office of Radio and Television (ORTB) broadcast in French and local languages. Fifteen rural radio stations, which were governed by local committees and received support from the ORTB, broadcast several hours a day exclusively in local languages. Radio France International and the BBC broadcast in Cotonou.

Two national and several private television stations broadcast. Although none of the television stations broadcast partisan programs, the vast majority of news programming centered on government officials' activities, government-sponsored conferences, and international stories provided by French television or other foreign sources.

During the year there were unconfirmed reports that members of the president's staff harassed private newspapers that expressed opposition to government policies.

The High Authority for Audio-Visual Media and Communications oversaw media operations and required broadcasters to submit weekly lists of planned programs and publishers to submit copies of all publications; however, the media did not comply with these requirements in practice. The information was used for administrative purposes; however, journalists often complained that it was an attempt at censorship.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, security forces forcibly dispersed numerous demonstrations during the year, which resulted in one death and numerous injuries. No action was taken against security forces responsible for such actions during the year. The government requires permits for use of public places for demonstrations and generally granted such permits, but the government sometimes used “public order” to deny legitimate requests for permits from opposition groups, civil society organizations, and labor unions.

In January police briefly detained numerous secondary students who participated in a student demonstration.

On March 8, Togolese organizers announced that they would hold a rally with or without government permission after repeatedly being denied permission to demonstrate. On March 9, approximately 100 demonstrators gathered in Cotonou. Police initially informed the group that they would not be allowed to march but subsequently announced that permission “from the top” had been granted. The police then reportedly were notified that permission had been rescinded, and they were authorized to disperse the crowd by any means necessary. Using nightsticks and tear gas, the police dispersed the crowd and arrested some participants.

On March 23, at the University of Abomey-Calavi, police forcibly dispersed a demonstration of students and professors who were protesting the government-appointed rector.

On May 2, police used tear gas to disperse an unauthorized protest organized by the Nigerian community. When the demonstrators began to loot and destroy property, police shot and killed one of the participants. Numerous persons were injured, and approximately 20 persons were briefly detained.

No action was taken against security forces who violently dispersed demonstrations in 2004; one person was killed, and numerous persons were injured.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. The government requires associations to register and routinely granted registrations.

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

Persons who wish to form a religious group must register with the Ministry of the Interior. There were no reports that any group was refused permission to register or was subjected to unusual delays or obstacles in the registration process.

Societal Abuses and Discrimination.—There is no known Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice; however, the presence of police, gendarmes, and illegal roadblocks impeded domestic movement. Although ostensibly meant to enforce automotive safety and customs regulations, many of these checkpoints served to exact bribes from travelers. The government maintained previously implemented measures to combat such corruption at roadblocks, but they were not always effective, and extortion occurred.

The government maintained documentary requirements for minors traveling abroad as part of its continuing campaign against trafficking in persons (see section 5).

The government’s policy toward the seasonal movement of livestock allowed migratory Fulani herdsmen from other countries to enter freely; the government did not enforce designated entry points. Disputes arose between the herdsmen and local landowners over grazing rights.

The law prohibits the forced exile of citizens, and the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol. The government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. After the April elections in Togo, approximately 25 thousand Togolese fled their country. As of August 8, 24,731 Togolese had registered as refugees

in the country. Approximately 42 percent of these refugees were living in refugee camps, while the remainder resided in host communities. Despite severe economic pressures that limited its ability to provide education for children, the government allowed Togolese refugees to enroll their children in local schools and permitted their participation in most economic activities.

In 2004 the UNHCR determined that the more than 200 Ogoni refugees from Nigeria could safely return home and were no longer entitled to refugee status. No Ogoni were forcibly returned to Nigeria; however, the UNHCR ran incentive programs to encourage their repatriation and reduced food and housing subsidies to the Ogoni.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and generally fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Observers viewed the March 2003 national assembly elections as generally free and fair; however, opposition parties charged that there were some irregularities. The March 2003 national assembly elections resulted in a loss of seats by the opposition, notably the Rebirth of Benin (RB), the primary opposition party led by former president Nicephore Soglo. A second opposition party, led by former prime minister Adrien Houngbedji, joined the government coalition, leaving only Soglo's party and the minor Star Alliance (AE) party in the opposition. The RB held 15 of the National Assembly's 83 seats; AE held 3 seats.

Observers viewed the 2001 reelection of Kerekou as free but not entirely fair because of the apparent judicial manipulation of the presidential electoral counts, the intimidation of opposition deputies, and the unprecedented scope of campaign expenditures made by the president's coalition. When opposition candidates challenged the preliminary, first-round presidential vote tallies, the court initially affirmed those results despite the electoral commission's concession that computer failures and other irregularities made those tallies unreliable. Following extensive public criticism, the court reviewed the evidence in more detail, modified the tallies, and gave some of the numerous opposition candidates marginally higher total votes. No members of the opposition were in the president's cabinet or in the National Assembly's Executive Committee.

On July 18, the National Assembly passed an election law bill that provides specific rules for the 2006 presidential elections, including a controversial six-month residency requirement for presidential candidates. The law generated widespread opposition by observers, who charged that the residency requirement was politically motivated to exclude certain candidates. On July 26, the constitutional court rejected the residency requirement and returned the bill to the National Assembly for revision. As of year's end, the National Assembly had not revised the bill.

There were 5 women in the 21-member cabinet and 6 women in the 83-member, unicameral National Assembly, including the leader of the largest opposition party. The president of the constitutional court was a woman as was the president of the high court of justice.

Minority ethnic groups were well represented in government agencies, civil service, and the armed forces. In the National Assembly, 19 members were from the Goun-Nago-Yoruba ethnic group, 15 from the Bariba, and 10 from the Somba-Dendi and other smaller groups.

Government Corruption and Transparency.—Official corruption was widespread; however, unlike in the previous year, no government officials were prosecuted for corruption. During the year President Kerekou reiterated senior officials of his cabinet were involved in corruption and related offenses, a charge he also made publicly in 2003.

There were no laws that provided for public access to government information, and it was unclear whether requests for such access were granted.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

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

The law prohibits discrimination based on race and sex; however, societal discrimination against women continued. Persons with disabilities were disadvantaged.

Women.—Domestic violence against women, including wife beating, was common. The law prohibits domestic violence, and the penalty ranged from 6 to 36 months' imprisonment. However, NGO observers believed that women remained reluctant to report cases. Judges and police also were reluctant to intervene in domestic disputes; society and law enforcement considered such cases to be a family matter. The local chapter of a regional NGO, Women in Law and Development-Benin, offered social, legal, medical, and psychological assistance to victims of domestic violence.

The law prohibits rape, but enforcement was weak due to police ineffectiveness and corruption. Sentences for rape ranged from one to five years' imprisonment.

FGM was practiced on females ranging from infancy through 30 years of age and generally took the form of excision. Approximately 17 percent of women in the country have undergone FGM, although the figure was higher in certain regions, like Atacora (45 percent) and Borou (57 percent), and among certain ethnic groups. For example, more than 70 percent of the women in the Bariba, Yoa-Lokpa, and Peul ethnic groups have undergone FGM. Younger women were less likely to be excised than their older counterparts. The law prohibits FGM and provides for penalties for performing the procedure, including jail sentences of up to 10 years in prison and \$10,000 (6 million CFA francs); however, the government generally was unsuccessful in preventing the practice. Those who performed the procedure, usually older women, profited from it. NGOs and others continued to educate rural communities about the dangers of FGM and to retrain FGM practitioners in other activities. A prominent NGO, the local chapter of the Inter-African Committee, made progress in raising awareness of the dangers of the practice, and the government cooperated with its efforts. The Ministry of Family continued an education campaign that included conferences in schools and villages, discussions with religious and traditional authorities, and banners. NGOs also addressed this issue in local languages on local radio stations.

Prostitution, especially child prostitution, was a problem even though the law prohibits it. Sentences for prostitution included imprisonment of 6 months to 2 years and a fine of \$800 (400,000 CFA francs) to \$8,000 (4 million CFA francs).

The law does not prohibit sexual harassment, and it occurred.

Although the law provides for equality for women in the political, economic, and social spheres, women experienced extensive societal discrimination, especially in rural areas where they occupied a subordinate role and were responsible for much of the labor on subsistence farms. In urban areas, women dominated the trading sector in the open-air markets. During the year the government and NGO community continued to educate the public on the 2004 family code, which provides women with inheritance and property rights and significantly increases their rights in marriage, including prohibitions on forced marriage, child marriage, and polygyny. Regulations to implement the code fully had not been promulgated by year's end.

Children.—The government has stated publicly its commitment to children's rights and welfare, but it lacked the resources to fulfill that commitment. The Ministry of Family was responsible for the protection of children's rights, primarily in the areas of education and health. The National Commission for Children's Rights and the Ministry of Family had oversight roles in the promotion of human rights issues with regard to children and their welfare.

Primary education was compulsory for all and tuition-free for girls; however, in some parts of the country, girls received no formal education, and parents paid tuition for both boys and girls because many schools had insufficient funds. The government offered books at reduced prices to promote children's access to primary schools and to enhance the quality and relevance of schooling received. According to the UN Children's Fund (UNICEF), primary school enrollment was approximately 90 percent of boys and approximately 60 percent of girls nationwide; only 26 percent of boys and 12 percent of girls were enrolled in secondary school. Girls did not have the same educational opportunities as boys, and female literacy was approximately 18 percent (compared with 50 percent for men). However, recent elementary school pass rates for girls have increased. Unlike in the previous year, when strikes by teachers seriously disrupted the school year, schools have remained open since the January 14 resolution of the teachers' strike (see section 6.b.).

FGM was commonly performed on young girls (see section 5, Women).

The law prohibits child marriage (under 14 years of age); however, the practice continued in rural areas, and underage (under 18 years of age) marriage was permitted with parental consent. There also was a tradition in which a groom abducts and rapes his prospective child bride. The practice was widespread in rural areas, despite government and NGO efforts to end it through information sessions on the rights of women and children.

Despite widespread NGO campaigns, the traditional practice of killing deformed babies, breech babies, babies whose mothers died in childbirth, and one of two new-

born twins (all of whom are considered sorcerers) continued in some rural areas, and practitioners operated with impunity.

Criminal courts meted out stiff sentences to criminals convicted of crimes against children, but many such crimes never reached the courts due to lack of education, limited access to the courts, or fear of police involvement in the problem.

The law prohibits child prostitution; however, enforcement was frequently lax, and the commercial sexual exploitation of children was a problem (see section 5, Trafficking).

Trafficking in children also remained a problem. Some trafficking of children occurred in connection with the forced servitude practice called “vidomegon,” in which children worked in a voluntary arrangement between two families (see section 5, Trafficking).

Child labor, although illegal, remained a problem (see section 6.d).

There were numerous street children, most of whom did not attend school and had limited access to government resources. Some street children became prostitutes to support themselves.

Trafficking in Persons.—Although no law specifically prohibits trafficking in persons, the government interprets its laws as prohibiting trafficking in persons in general and in underage girls in particular; however, there were reports of trafficking in children. The criminal code prohibits kidnapping and prostitution. The country was a source, transit, and destination for trafficked persons, primarily children.

Penalties for traffickers involved in “labor exploitation” ranged from fines, to prison terms, forced labor, or the death penalty, depending on the severity of the crime and the length of time over which the exploitation occurred. Penalties for the trafficking of minors for prostitution ranged from 2 to 5 years’ imprisonment with a fine of \$2 thousand (1 million CFA francs) to \$20 thousand (10 million CFA francs).

On June 9, the government signed an agreement with Nigeria to prevent, suppress, and punish trafficking in persons. On July 20, the government signed a regional accord with nine other West and Central African countries to combat trafficking. Regional efforts also continued between heads of state of concerned countries to cooperate to identify, investigate, and prosecute agents and traffickers, and to protect and repatriate trafficking victims.

During the year the government sharply increased its efforts to arrest and prosecute traffickers. From January to October, there were 137 trafficking related arrests and 44 convictions. Police also intercepted traffickers and recovered children at the border. For example, on January 21, police intercepted and recovered 15 child victims of trafficking.

The traditional practice of *vidomegon*, in which poor, often rural, families placed a child in the home of a more wealthy family to avoid the burden the child represented to the parental family, increasingly involved abuse. While originally a voluntary arrangement between two families, the child often faced forced labor, long hours, inadequate food, and sexual exploitation. Approximately 90 to 95 percent of the children in *vidomegon* were young girls. Children were sent from poorer families to Cotonou and then sometimes on to Gabon, Cote d’Ivoire, and the Central African Republic to help in markets and around the home. The child received living accommodations, while the child’s parents and the urban family that raised the child split the income generated from the child’s activities.

Children were trafficked to Ghana, Nigeria, and Gabon for indentured or domestic servitude, farm labor, and prostitution. In addition, children were taken across the border to Togo and Cote d’Ivoire to work on plantations. Children from Niger, Togo, and Burkina Faso have been trafficked to country for indentured or domestic servitude. Trafficked children generally came from poor rural areas and were promised educational opportunities or other incentives.

According to a 2000 UNICEF study, four distinct forms of trafficking occurred in the country. “Trafic-don” was when children were given to a migrant family member or stranger, who turned them over to another stranger for vocational training or education. “Trafic-gage” was a form of indentured servitude, in which a debt was incurred to transport the child, who was not allowed to return home until the debt was repaid. “Trafic-ouvrier” involved children of ages 6 years to 12 years, who worked as artisans, construction laborers, or agricultural or domestic workers. This was the most common variant, estimated to be 75 percent of the total traffic of the three provinces UNICEF surveyed in 2000. Finally, “trafic-vente” was the outright sale of children.

Child prostitution mainly involved girls whose poor families urged them to become prostitutes to provide income. Some children were abused sexually by teachers who sought sex for better grades and lured to exchange sex for money by older men who acted as their “protectors.” Unlike in previous years, there were no reports of sexual tourism or reports that adult males preferred young girls because they were viewed

as less demanding and less likely to have HIV/AIDS. NGOs and international organizations organized assistance to child prostitution victims and worked on prevention programs.

During the year the government provided the 15-member national child protection committee with training and logistical support, including flashlights, bicycles, and other equipment. Committee members were drawn from the government, police, and child welfare organizations.

The Brigade for the Protection of Minors, under the jurisdiction of the Interior Ministry, fought crimes against children. The government worked with NGOs to combat child trafficking, using media campaigns and greater border surveillance; however, police complained that they lacked equipment to monitor trafficking adequately.

During the year the Ministry of Family, international NGOs, and the donor community assisted numerous children who had been trafficked to other countries to work in mines, quarries, and farms. Efforts included the provision of food, shelter, medical treatment, and subsequent placement in educational and vocational programs. The Ministry of Family also ran centers in urban areas to provide education and vocational training to victims of child trafficking.

Government efforts to reunite trafficked children with their families continued during the year; however, no statistics were available.

Persons with Disabilities.—There is no law that prohibits discrimination against persons with physical and mental disabilities; however, the law provides that the state should care for persons with disabilities. There were no legal requirements for the construction or alteration of buildings to permit access for persons with disabilities. The government operated few institutions to assist persons with disabilities, and many such individuals were forced to beg to support themselves.

The labor code includes provisions to protect the rights of workers with disabilities, which were enforced with modest effectiveness during the year.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers with the freedom to organize, join unions, and meet, and the government generally respected these rights in practice. The labor force of approximately two million was engaged primarily in subsistence, with only a small percentage of the population engaged in the formal (wage) sector. Although approximately 75 percent of government workers belonged to labor unions, a much smaller percentage of workers in the private sector were union members.

The labor code prohibits employers from taking union membership or activity into account regarding hiring, work distribution, professional or vocational training, or dismissal; however, the government did not always enforce these provisions, and there were reports that individuals were dismissed for union activity.

b. The Right to Organize and Bargain Collectively.—The labor code generally allows unions to conduct their activities without interference, and the government generally protected this right in practice. The labor code provides for collective bargaining, and workers freely exercised these rights. The government sets wages in the public sector by law and regulation. There are no export processing zones.

Workers must provide three days advance notice before striking; however, authorities can declare strikes illegal for a variety of causes, such as threatening to disrupt social peace and order, and can requisition striking workers to maintain minimum services. Workers exercised their right to strike during the year. The government may not prohibit any strike on the grounds that it threatens the economy or the national interest. Laws prohibit employer retaliation against strikers, except a company may withhold part of a worker's pay following a strike. The government enforced these laws effectively.

On January 20, after the government agreed to a 7 percent pay increase, teachers returned to work, ending a nationwide strike that began in August 2004. Although some students lost nearly a year of instruction, the 2004–05 school year was not invalidated.

c. Prohibition of Forced or Compulsory Labor.—The labor code prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred, and trafficking was a problem (see sections 5 and 6.d.). The law provides for imprisonment involving compulsory labor for certain acts or activities related to the exercise of the right of free expression (see section 2.a.); no such sentences were imposed during the year.

d. Prohibition of Child Labor and Minimum Age for Employment.—The labor code prohibits the employment or apprenticeship of children under 14 years of age in any enterprise; however, child labor remained a problem. The Ministry of Labor enforced

the labor code in a limited manner and only in the formal sector due to the lack of inspectors. To help support their families, children of both sexes—including those as young as seven years old—continued to work on rural family farms, in small businesses, on construction sites in urban areas, in public markets as street vendors, and as domestic servants under the practice of *vidomegon* (see section 5). A majority of children working as apprentices were under the legal age of 14 for apprenticeship.

Some financially desperate parents indentured their children to “agents” recruiting farm hands or domestic workers, often on the understanding that the children’s wages would be sent to the parents. According to press reports, in some cases, these agents took the children to neighboring countries for labor (see section 5). Also, many rural parents sent their children to cities to live with relatives or family friends to perform domestic chores in return for receiving an education. Most families did not always honor their part of the bargain and abused child domestic servants.

The government took steps to educate parents and to prevent compulsory labor by children. The government undertook media campaigns, regional workshops, and public pronouncements on child labor problems. The government worked with a network of NGOs and journalists to educate the population about child labor and child trafficking.

The Ministry of Family, in conjunction with the labor ministry and the Justice Ministry, continued a 2003 program to fight child labor in major cities.

e. Acceptable Conditions of Work.—The government administratively set minimum wage scales for a number of occupations. The minimum wage was approximately \$50 (25 thousand CFA francs) per month; however, the minimum wage did not provide a decent standard of living for a worker and family. Many workers had to supplement their wages by subsistence farming or informal sector trade. Most workers in the wage sector earned more than the minimum wage, although many domestics and other laborers in the informal sector earned less.

The law establishes a workweek of between 40 and 46 hours, depending on the type of work, and provides for at least a 24-hour rest period per week. Domestic and agricultural workers frequently worked 70 hours or more per week. The authorities generally enforced legal limits on workweeks in the formal sector.

The code establishes health and safety standards, but the Ministry of Public Service, Labor, and Administrative Reform did not enforce them effectively. The law does not provide workers with the right to remove themselves from dangerous work situations without jeopardy to continued employment. The ministry has the authority to require employers to remedy dangerous work conditions but did not effectively enforce this.

BOTSWANA

Botswana, with a population of 1.76 million, has been a multiparty democracy since its independence in 1966. The constitution provides for indirect election of a president and popular election of a National Assembly. In October 2004 the Botswana Democratic Party (BDP), led by President Festus G. Mogae, returned to power in elections generally deemed free and fair. The BDP has held a majority of national assembly seats since independence. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, the following human rights problems were reported:

- police use of excessive force during interrogation of suspects
- poor and possibly life-threatening prison conditions
- lengthy delays in the judicial process
- restrictions on press and academic freedoms
- harassment of human rights activists
- violence against women and ethnic San
- child abuse
- restrictions on trade unions

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, police shot and killed five individuals in three separate incidents during which suspects had shot at police attempting to apprehend them.

The results of the investigation into the March 2004 police shooting were not released during the year.

There were occasional instances of mob violence against criminal suspects, which resulted in at least one death. In August a mob caught a suspected robber and stoned him to death.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law explicitly prohibits such practices; however, there were reports that security forces occasionally beat and abused suspects to obtain evidence or elicit confessions. Coerced confessions and evidence gathered through coercion or abuse were inadmissible in court.

In May, in Gaborone, a robbery suspect claimed that officers at Broadhurst Police Station undressed him, placed a hood over his head to suffocate him, and beat him. An investigation was conducted but did not result in any charges.

In June San residents of Kaudwane village charged that Department of Wildlife and National Parks officers beat five members of the community in two separate instances during which suspects were questioned about poaching. The five, whose accounts were corroborated by other residents of the village, were briefly detained. One of the victims presented documentation from a local clinic verifying that he had been beaten. On July 22, the office of the president refuted the charges, quoting from a draft investigation report that characterized the charges as “baseless”; the report had not been released by year’s end.

In September leaders of the nongovernmental organization (NGO) First People of the Kalahari (FPK) charged that police harassed and intimidated human rights activists (see section 4).

Police forcibly dispersed demonstrators, which resulted in injuries (see section 2.b.).

Customary courts continued to impose corporal punishment in the form of lashings on the buttocks, generally against young male offenders in villages for crimes such as vandalism, theft, and delinquency.

Prison and Detention Center Conditions.—Prison conditions remained poor and possibly life threatening. As of early September the prison system, which had an authorized capacity of 3,910, held 6,259 prisoners. Overcrowding was worse in men’s prisons and constituted a serious health threat because of the country’s high incidence of HIV/AIDS and tuberculosis. Voluntary HIV testing and peer counseling were available to prisoners. Rape between inmates occurred. The prison commissioner has the authority to release terminally ill prisoners who are in the last 12 months of their sentences and to allow citizen prisoners with sentences of 12 months or less to perform “extramural” labor. During the year the government released 710 prisoners under the extramural labor program.

Mistreatment of prisoners is illegal; however, the Department of Prisons received three complaints that guards had mistreated inmates. One of the three complaints was forwarded to the police for investigation; police concluded there was insufficient evidence to charge the officer involved.

By December 8, 72 prisoners had died in custody, primarily from HIV/AIDS-related illnesses. Although the Department of Prisons routinely investigated deaths in custody, the results of those inquests were not made public.

Due to overcrowding, juveniles occasionally were held with adults. Some parents requested that their incarcerated children be transferred to facilities nearer to their homes, which also resulted in the detention of juveniles with adults. Pretrial detainees and convicts were held together.

The minister of labor and home affairs appointed visiting committees charged with visiting each prison facility quarterly, and they did so during the year. Although the committees documented their findings, their reports were not made public. By September no NGOs had requested to visit a prison. The government permitted the International Committee of the Red Cross to visit prisoners during the year.

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

Role of the Police and Security Apparatus.—The Botswana Police Service (BPS), under the Ministry for Presidential Affairs and Public Administration, has primary responsibility for internal security. Customary or local police under the Ministry of Local Government have law enforcement responsibility in some rural areas. The army is responsible for external security and has some domestic security responsibilities.

There were approximately 6,500 BPS officers and approximately 1,800 local police. Corruption was not considered a major problem, but respondents to a July survey listed the police among the top five government agencies most prone to corruption. Impunity generally was not a problem. Unlike in the previous year, there were no convictions of police officers for criminal acts.

During the year approximately 170 police officers received human rights training at the International Law Enforcement Academy in Botswana.

Arrest and Detention.—Police officers must produce an arrest warrant except in certain cases, such as when an officer witnesses a crime being committed or discovers that a suspect is in possession of a controlled substance. Suspects must be informed of their rights upon arrest, including the right to remain silent, and must be charged before a magistrate within 48 hours; authorities respected these rights in practice. A magistrate may order a suspect held for 14 days through a writ of detention, which may be renewed every 14 days. There was a functioning bail system, and detention without bail was unusual except in murder cases, where it is mandatory. Detainees have the right to contact a family member and to hire attorneys of their choice, but in practice most were unable to afford legal counsel. The government provides counsel for the indigent only in capital cases, although attorneys are required to accept pro bono clients.

There were no reports of political detainees.

Pretrial detainees waited from several weeks to several months between the filing of charges and the start of their trials. Pretrial detention in murder cases sometimes lasted beyond one year. Such delays were largely due to judicial staffing shortages.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and while the judiciary was independent, the civil courts remained unable to provide timely, fair trials due to severe staffing shortages and a backlog of pending cases. A June report by the office of the ombudsman characterized the “delays in the finalization of criminal matters in all courts” a “serious concern,” particularly the delays in processing appeals. A survey conducted during the year found that 31 percent of respondents cited inefficiencies in the justice system as a reason for the perceived increase in fraud in the country.

The judiciary consists of both a civil court (including magistrate’s courts, a high court, and a court of appeal) and a customary or traditional court system.

Trial Procedures.—Most trials in the regular courts were public, although trials under the National Security Act may be held in secret. There was no jury system. Defendants have the right to be present and consult with an attorney in a timely manner, but the state provides an attorney only in capital cases. Those charged with noncapital crimes were tried without legal representation if they could not afford an attorney. As a result, many defendants were not informed of their rights in pretrial or trial proceedings. Defendants can question witnesses against them and have access to government-held evidence relevant to their cases. There is a presumption of innocence, and defendants have the right to appeal. The Botswana Center for Human Rights provided free legal services but had limited capacity. The University of Botswana Legal Assistance Center provided free legal services in civil, but not criminal, matters.

On March 21, the high court granted a permanent stay of prosecution to two San accused of committing murder in 1995. The judge cited unacceptable delays in the process of trying the men. The two had been convicted in 1997, but the high court later ordered a retrial on the grounds they had not received a fair trial due in part to a lack of appropriate translation facilities.

Most civil cases were tried in customary courts under the authority of a traditional leader. These courts handled minor offenses involving land, marital, and property disputes. Foreigners may be tried in customary courts. In customary courts the defendant does not have legal counsel, and there are no precise rules of evidence. Tribal judges, appointed by the tribal leader or elected by the community, determined sentences, which may be appealed through the civil court system. The quality of decisions reached in the customary courts varied considerably. In some cases tribal judges may mete out sentences such as public lashings (see section 1.c.).

There is a military court system; civilians are not tried in military courts.

Political Prisoners.—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, in 2002 the government forcibly resettled most of the San and other minority members living in the Central Kalahari Game Reserve (CKGR) to resettlement sites on the perimeter of the reserve. Government officials maintained that the resettlement program was voluntary and necessary to reduce the cost of providing public services, to “develop” the San, and to minimize human impact on wildlife. On September 1, the government closed the reserve to control a disease outbreak. The reserve remained closed at year’s end; despite the closure and earlier relocations, some San remained in the reserve at year’s end (see section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected freedom of speech in practice; however, the government attempted to limit freedom of the press and continued to dominate domestic broadcasting. The government occasionally censored stories or news sources that it deemed undesirable.

The Botswana Press Agency, owned and operated by the government, provided most of the information found in the media through the *Daily News* newspaper (distributed nationwide at no cost) and two FM radio stations. State-owned media generally featured uncritical reporting on the government and were susceptible to political interference. For example, on March 7, the minister of communications, science, and technology reportedly advised government journalists not to ask visiting dignitaries “direct and embarrassing questions.” In November BTV canceled a panel discussion on the salaries of cabinet ministers after alleged interference by the government, which claimed the cancellation resulted from “technical mistakes.”

The independent media were active and generally expressed a wide variety of views; however, the government placed strict controls on their access to information.

Radio continued to be the most broadly accessible medium. Government-owned Radio Botswana and Radio Botswana 2 covered most of the country. Privately-owned Yarona FM and Gabz FM broadcast in 5 of the country’s 10 largest towns. They produced news and current affairs programs without government interference.

During the year the government stopped renewing radio licenses held by the FPK, charging that the vehicle-mounted and hand-held radios were being used by poachers to help avoid wildlife patrols in the CKGR. The FPK said that the radios were vital for the safety of widely scattered families living in the reserve.

State-owned Botswana Television was the primary source of televised news and current affairs programs. The privately-owned Gaborone Broadcasting Corporation broadcast mostly foreign programs.

During the year the government deported at least two journalists whose reporting was critical of the government. In each case, the government exercised its right not to specify reasons for the deportations other than to cite national security concerns. On July 27, the government deported Zimbabwean journalist and *Ngami Times* reporter Rodrick Mukumbira, whose work and residence permits were valid until October 2007; the government again cited national security concerns. Government officials also refused to discuss their decision to bar another Zimbabwean journalist from entering the country on August 5.

The government’s 2003 suspension of *Masa-a-sele*, a radio call-in program, remained in effect at year’s end; the government cited the program’s content and use of profanity as the reason for the suspension.

Government officials sometimes complained of bias in the private press; however, government officials and other public figures have recourse to the courts if they believe that they have been libeled. Libel is a civil matter.

There were no government restrictions on the Internet; however, the government restricted academic freedom during the year. On May 31, the government deported Dr. Kenneth Good, a professor at the University of Botswana, who had written papers critical of the government. The government attributed its actions to national security concerns. In a June 11 press conference, President Mogae highlighted Dr. Good’s support for Survival International’s public campaign to depict the country’s diamonds as “conflict diamonds” because of the government’s relocation of San and other minorities from the CKGR (see section 5). There also were reports that government officials had discouraged academics from presenting papers, especially in international fora, that were critical of the government.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice; however, on September 24, police forcibly dispersed and shot rubber bullets into a demonstration led by San leaders Roy Sesana and Jumanda Gakelebene. One person was injured. The demonstrators had conducted a peaceful protest and

then tried to force entry into the CKGR, which was temporarily closed due to a disease outbreak in reserve animals. Police arrested 21 protesters, who were released on September 27. No trial had been held by year's end.

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

Societal Abuses and Discrimination.—There was no known Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 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.

In 2002 the government required the San to relocate from the CKGR to one of three designated settlements outside of the reserve (see section 5). Visitors to the reserve, including relocated former residents, had to register with Department of Wildlife officials to obtain a permit to enter the CKGR. A few San remained in the reserve, and some San moved back to the CKGR during the year. The government denied an NGO entry into the CKGR during the year (see section 4).

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against refoulement, the return of persons to a country where they fear persecution, and granted refugee status or asylum. The government's system for granting refugee status was accessible but slow. During the year the government also provided temporary protection to approximately 480 individuals who did not qualify as refugees under the 1951 convention and the 1967 protocol. The government generally cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

The government held newly arrived refugees and asylum seekers, who were primarily from Zimbabwe, in the Center for Illegal Immigrants in Francistown until the Refugee Advisory Committee (RAC), a governmental body whose chairperson is the district commissioner of Francistown, made a status recommendation; UNHCR was present at RAC meetings as observer and technical advisor. Once persons were granted refugee status, the government transferred them to the Dukwe Refugee Camp until their resettlement or voluntary repatriation. Refugee applicants who were unsuccessful in obtaining asylum also were allowed to remain at Dukwe until the government referred their cases to the UNHCR for resettlement. The UNHCR opposed the detention of asylum seekers at the center on the grounds that asylum seekers should not be held in detention facilities.

During the year refugees in the center alleged that prison guards beat them and that they were not allowed to see family members. Refugee children in the center did not have access to education or recreation for the duration of their detention, which in some cases lasted for almost 10 months.

The remaining 11 alleged Caprivi secessionists remained in detention while the UNHCR reviewed their refugee claims.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—The country held parliamentary elections in October 2004. The BDP, led by President Mogae, won 44 of 57 competitive seats; the Botswana National Front won 12; and the Botswana Congress Party won 1. The BDP has won a majority of seats in the National Assembly in every election since independence. Domestic and international observers characterized the elections as generally free and fair; however, BDP candidates had preferential access during much of the campaign to state-owned television. Reports of large anonymous campaign contributions to the ruling party, particularly by international diamond interests, resulted in public calls for greater transparency in political party funding.

Although women accounted for approximately 57 percent of voters in the October 2004 election, they stood for office much less frequently. There were 7 women in the 61-seat parliament, 5 women in the 20-seat cabinet, 3 female justices on the 13-seat high court, and 2 women in the 15-seat house of chiefs.

The law recognizes only the eight principal ethnic groups of the Tswana nation; however, members of ethnic groups not recognized by the law participated actively

in the government, particularly members of the Kalanga and Bakalagadi ethnic groups. There were 23 members of minorities in the 61-seat parliament, 10 in the 20-seat cabinet, and 5 on the high court.

Government Corruption and Transparency.—There were isolated reports of government corruption during the year. A corruption perception survey conducted in July in the business sector found that nearly 40 percent of respondents believed that corruption was “very high,” and 33 percent described it as “moderate.” Seventy-four percent of respondents believed that corruption was increasing in the country. Respondents most frequently identified local councils, police officers, immigration, labor, and transportation officials as corrupt.

During the year the government took steps to curb corruption. The Directorate on Corruption and Economic Crime (DCEC) investigated allegations of corruption, although there were no prosecutions. The DCEC promoted public awareness and education, and also worked to prepare codes of ethical conduct.

The law does not provide public access to government information, and the government generally restricted such access.

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 at times were cooperative and responsive to their views; however, during the year government officials harassed and arrested NGO members.

Independent local human rights groups included The Botswana Centre for Human Rights; Childline, a child welfare NGO; Emang Basadi, a women’s rights group; and the Botswana Network on Ethics, Law, and HIV/AIDS. The government interacted with and sometimes financially supported some of these organizations.

In July the government denied the FPK entry to the CKGR, charging that the group intended to encourage illegal resettlement in the reserve and to help poachers. The FPK, which represented the San in their legal challenge against the government, claimed that its members sought entry to consult with San plaintiffs (see section 5). The government also refused to renew the FPK’s licenses to operate two-way radios within the reserve, charging that the NGO had used the radios to encourage and facilitate illegal activities (see section 2.a.).

In September government officials harassed and intimidated a group of foreign human rights activists visiting the CKGR. A government official subsequently apologized to the group. The government initiated an investigation into the incident, the results of which were not available by year’s end. In December the government facilitated a return visit to the CKGR by representatives of First Peoples Worldwide, an international NGO whose representative had been present during the September incident.

On September 24, police dispersed an FPK demonstration and arrested 21 protesters after they attempted to force entry into the CKGR, which was closed (see Section 2.b.).

In June the government facilitated a visit by a delegation from the African Commission on Human and Peoples Rights to investigate treatment of the San. In September the delegation commended the government for being the first country to invite the commission to visit.

An independent, autonomous ombudsman handled human rights and other issues in the country, and the government generally cooperated with the ombudsman.

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

The law prohibits governmental discrimination on the basis of ethnicity, race, nationality, creed, sex, or social status, and the government generally respected these provisions in practice. However, the law does not prohibit discrimination by private persons or entities, and there was societal discrimination against women, persons with disabilities, persons with HIV/AIDS, and minority ethnic groups, particularly the San.

Women.—The law does not specifically prohibit domestic violence against women, and it remained a serious problem. Under customary law and in common rural practice, men have the right to “chastise” their wives. Greater public awareness and improved legal protection resulted in increased reporting of domestic violence and sexual assault; however, police rarely were called to intervene in such cases. During the year there was extensive media coverage of “passion killings,” in which jealous men killed their girlfriends or wives and often then committed suicide.

The law prohibits rape but does not recognize the concept of spousal rape. During the year 1,540 incidents of rape were reported to the police. By law the minimum

sentence for rape is 10 years, increasing to 15 years with corporal punishment if the offender is HIV-positive, and to 20 years with corporal punishment if the offender knew his HIV-positive status. A person convicted of rape is required to undergo an HIV test before being sentenced; however, the test did not determine if the person was HIV positive at the time of the crime. Police lacked basic investigative techniques in rape cases.

Prostitution is illegal but was widespread throughout the country.

The law does not prohibit sexual harassment, although the amended Public Service Act recognizes sexual harassment as misconduct punishable under the terms of that act. Sexual harassment continued to be a problem, particularly with men in positions of authority, including teachers, supervisors, and older male relatives who pressured women and girls to provide sexual favors.

Women legally enjoy the same civil rights as men, but in practice societal discrimination persisted. A number of traditional laws enforced by tribal structures and customary courts restricted women's property rights and economic opportunities, particularly in rural areas. Marriages can occur under one of three systems, each with its own implications for women's property rights. A woman married under traditional law or in "common property" was held to be a legal minor and requires her husband's consent to buy or sell property, apply for credit, and enter into legally binding contracts. Under an intermediate system referred to as "in community of property," married women were permitted to own immovable property in their own names, and the law stipulates that neither spouse can dispose of joint property without the written consent of the other. Women increasingly exercised the right to marriage "out of common property," in which case they retained their full legal rights as adults. Polygyny is legal under traditional law with the consent of the first wife, but it was not common.

Well-trained urban women had growing access to entry- and mid-level white collar jobs. Although women occupied many senior level positions in government agencies, such as the governor of the Bank of Botswana, the attorney general, and the director of public prosecution, their counterparts in the private sector seldom held such positions.

The Women's Affairs Department in the Ministry of Labor and Home Affairs had responsibility for promoting and protecting women's rights and welfare. During the year it provided approximately \$240 thousand (1.3 million pula) to NGOs working on such issues.

Children.—The law provides for the rights and welfare of children, and the government continued to allocate the largest portion of its budget to the Ministry of Education and the second largest portion to the Ministry of Local Government, which distributed books, food, and materials for primary education. The country also has a court system and social service apparatus designed solely for juveniles.

The government provided access to primary and secondary education free of tuition. The state provided uniforms, books, and development fees for students whose parents were destitute. Education was not compulsory. According to the most recent government statistics, approximately 88 percent of children attended school, and approximately 30 percent of children completed secondary school. Girls and boys attended school at similar rates. School attendance and completion rates were highest in urban areas, where transportation was readily available, and lowest in rural areas, where children lived far from schools and often assisted their families as cattle tenders, domestic laborers, and child care providers.

The UN Children's Fund (UNICEF) reported there were approximately 112 thousand orphans in the country, due largely to deaths of their parents from HIV/AIDS. As of June, the government had registered approximately 50,237 children as orphans. Once registered these children received clothes, shelter, a monthly food basket worth \$40 (216 pula), and counseling as needed. Relatives continued to deny inheritance rights to orphans.

Children had access to government healthcare centers for \$0.50 (2 pula), and students in remote areas received two free meals a day at school. Approximately 28 percent of babies born from HIV positive mothers were protected from the virus, largely as a result of the government's Prevention of Mother to Child Transmission Program.

Although the law prohibits defilement (sex with a child below the age of 16), no law specifically prohibits child abuse. Sexual abuse of students by teachers was a problem, and there were frequent media reports of rape, sexual assault, incest, and defilement. The increasing number of HIV/AIDS orphans contributed to an increase in incest. The law considers incest a punishable act only if it occurs between blood relatives, leaving children unprotected from incestuous acts performed by step parents, caregivers, and the extended family. In view of the belief held by some persons in southern Africa that intercourse with a virgin was a cure for HIV/AIDS,

intergenerational sex (sexual relations between older men and girls) and the problems of teenage pregnancy caused by older men continued to receive extensive media attention during the year.

Child marriage occurred infrequently and was largely limited to certain ethnic groups.

Child prostitution and pornography were criminal offenses, and the law stipulates a 10-year minimum sentence for defilement of persons less than 16 years of age. Many children, mostly believed to be orphans, became street children and resorted to prostitution to survive.

There were reports of child labor (see section 6.d.).

Trafficking in Persons.—The law does not prohibit trafficking in persons, although penal code provisions cover related offenses such as abduction and kidnapping, slave trafficking, and procuring women and girls for the purpose of prostitution. There were unconfirmed reports that women and children have been trafficked out of the country to South Africa. Traffickers charged with kidnapping or abduction could be sentenced to seven years' imprisonment. Local police had primary responsibility for combating trafficking-related crimes.

The government worked with NGOs to assist potential trafficking victims and provided grants to shelters that provided short- and long-term care for street children.

Persons with Disabilities.—The law does not prohibit discrimination against persons with disabilities in education, employment, access to health care, or the provision of other state services. The government has a national policy that provides for integrating the needs of persons with disabilities into all aspects of government policymaking; however, the government did not mandate access to public buildings or transportation for persons with disabilities. There was some discrimination against persons with disabilities, and employment opportunities remained limited. The government funded NGOs that provided rehabilitation services and supported small-scale work projects for workers with disabilities.

Indigenous People.—The earliest known inhabitants of the country, the San, were linguistically, culturally, and often morphologically distinct from the rest of the population. They were not, however, a homogenous group. The estimated 48 thousand San in the country represented approximately 3 percent of the country's population. The San remained economically and politically marginalized, have generally lost access to their traditional land in fertile regions of the country, and were vulnerable to exploitation by their non-San neighbors. Their isolation, low educational levels, ignorance of civil rights, and lack of political representation have stymied their progress. Although the San traditionally were hunter-gatherers, a substantial proportion of them resided in government-created Remote Area Dweller settlements and subsisted on government welfare benefits. Most employed San worked as agricultural laborers on cattle ranches that belonged to other ethnic groups.

The colonial government established the 20 thousand square mile CKGR in 1963 to protect the area's ecosystem and to allow some San groups to continue to pursue a subsistence hunter-gatherer livelihood within the reserve. By 1997 the government had concluded that San settlements within the CKGR were incompatible with wildlife protection and social development, and most San were relocated from the CKGR under an arrangement that included government transportation and a modest, government-set compensation, usually in the form of livestock. Several hundred residents did not accept the government's relocation inducements, and remained in the reserve. In January 2002 the government delivered an ultimatum to remaining CKGR residents declaring that public services within the reserve, most significantly provision of water, would cease and that all residents would be relocated outside the reserve. In April 2002 the government forcibly resettled most San from the CKGR to the settlement areas of Kaudwane, New Xade, and Xere.

Settlement sustainability was threatened by poor employment opportunities, rampant alcohol abuse, and the high cost of providing public services. The San continued to struggle with the lack of economic opportunities in the relocation areas and with a general yearning to return to their homes within the CKGR. During the year a number of individuals and families moved back into the CKGR, which prompted the government to ban radios and to bar the FPK from the reserve. This heightened ill will among the San and generated local and international media attention. San groups called for the government to recognize their land use system and to grant them land rights.

In July 2004 the high court began hearing a case filed by the FPK against the government to challenge the constitutionality of the government's removal of the San from the CKGR into settlements. The court case, which the government announced it would appeal should it lose, continued until August, when the plaintiffs

requested a continuance to raise funds for their legal expenses. The case was scheduled to resume in February 2006.

A number of NGOs have made efforts to promote the rights of indigenous people or to help provide economic opportunities; however, the programs have had limited impact.

Other Societal Abuses and Discrimination.—Discrimination against persons with HIV/AIDS continued to be a problem, including in the workplace. The government funded community organizations that ran programs to reduce the stigma of HIV/AIDS.

The law prohibits homosexuality, and there were instances of harassment of homosexuals.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of workers' association, and workers exercised this right in practice. Public sector employees, who were extended the right to organize in 2004, were still in the process of establishing unions. The industrial or wage economy was small, and unions were concentrated largely in mineral extraction and to a lesser extent in the railway and banking sectors.

Workers may not be fired for union-related activities. Dismissals on other grounds may be appealed to civil courts or labor officers, which rarely ordered more than two months' severance pay.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for collective bargaining for unions that have enrolled 25 percent of a labor force; however, only the mineworker and diamond sorter unions had the organizational strength to engage in collective bargaining. There are no special laws or exemptions from regular labor laws in the country's export processing zone.

The law severely restricts the right to strike. Legal strikes theoretically are possible only after an exhaustive arbitration process. Sympathy strikes are prohibited.

During the year the Botswana Federation of Trade Unions (BFTU) registered a formal complaint with the International Labor Organization (ILO) over the dismissal by Debswana, the government-DeBeers joint venture that runs the country's diamond mines, of 461 employees who participated in a 2004 strike. Debswana also dismissed several union leaders who did not participate in the strike. In 2004 the industrial court ruled the strike illegal. The ILO had not responded to the complaint by year's end.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced and compulsory labor, including by children, and unlike in the previous year, there were no reports that poor rural children were taken from their homes under false pretenses and forced to work as maids or cattle herders (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—Although child labor is addressed in the Children's Act, some child labor occurred. Only an immediate family member may employ a child age 13 or younger, and no juvenile under age 14 may be employed in any industry without permission from the commissioner of labor. No organization has petitioned the commissioner for such permission. Only persons over age 16 may be hired to perform night work, and no person under age 16 is allowed to perform hazardous labor, including mining.

District and municipal councils have child welfare divisions, which are responsible for enforcing child labor laws; however, no systematic investigation has occurred. The labor commissioner, UNICEF, and officials of the Ministry of Local Government, Lands, and Housing generally agreed that child labor was limited to young children in remote areas who worked as cattle tenders, domestic laborers, and child care providers. Childline, a child welfare organization, received 12 reports of child labor from January to July.

The law provides that adopted children may not be exploited for labor and protects orphans from exploitation or coercion into prostitution, but HIV/AIDS has resulted in numerous orphans, many of whom have been forced to leave school to care for sick relatives and are potentially vulnerable to such exploitation.

e. Acceptable Conditions of Work.—The minimum hourly wage for most full-time labor in the private sector was \$0.64 (2.90 pula), which did not provide a decent standard of living for a worker and family. The cabinet determined wage policy based on recommendations made by the National Economic, Manpower, and Incomes Committee, which consists of representatives of the government, private sector, and the BFTU. The Ministry of Labor was responsible for enforcing the minimum wage, and each of the country's districts had at least one labor inspector.

Civil service disputes were referred to an ombudsman for resolution. Private labor disputes were mediated by labor commissioners; however, an insufficient number of commissioners resulted in one- to two-year backlogs in resolving such disputes.

Formal sector jobs generally paid well above minimum wage levels. Informal sector employment, particularly in the agricultural and domestic service sectors, where housing and food were included, frequently paid below the minimum wage. There was no mandatory minimum wage for domestic workers, and the Ministry of Labor did not recommend a minimum wage for them.

The law permits a maximum 48-hour workweek, exclusive of overtime, that is payable at time and a half for each additional hour. Most modern private sector jobs had a 40-hour workweek; however, the public sector had a 48-hour workweek.

The law provides that workers who complain about hazardous conditions may not be fired, and authorities effectively enforced this right. The government's ability to enforce its workplace safety legislation remained limited by inadequate staffing and unclear jurisdictions among different ministries. Nevertheless, employers generally provided for worker safety, with occasional exceptions in the construction industry.

Illegal immigrants from poorer neighboring countries, primarily Zimbabweans, were easily exploited in labor matters, since they would be subject to deportation if they filed grievances against their employers.

BURKINA FASO

Burkina Faso is a parliamentary republic with a population of approximately 12.2 million. On November 13, President Blaise Compaore was reelected to a third term with 80 percent of the vote. Observers considered the election free, despite minor irregularities, but not entirely fair due to the resource advantage held by the president. President Compaore, assisted by members of his party, the Congress for Democracy and Progress (CDP), continued to dominate the government. The civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained poor, but there were improvements in some areas. Poverty, unemployment, a weak infrastructure, and drought exacerbated some of the following human rights problems:

- security force use of excessive force against civilians, criminal suspects, and detainees, which resulted in deaths and injuries
- societal violence
- abuse of prisoners and harsh prison conditions
- official impunity
- arbitrary arrest and detention
- occasional restrictions on freedom of the press and assembly, including the forcible dispersion of demonstrations
- violence and discrimination against women and children, including female genital mutilation (FGM)
- trafficking in persons, including children
- discrimination against persons with disabilities
- child labor

During the year the government continued significant efforts to combat FGM and trafficking in persons.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no known politically motivated killings by the government or its agents; however, security forces were responsible for the deaths of civilians, criminal suspects, and detainees.

On February 13, Karim Bikienga died after being detained for 18 days in Ouagadougou Prison; Bikienga was suspected of involvement in the killing of 3 policemen in Ghana. The government provided no explanation for Bikienga's death, but human rights nongovernmental organizations (NGOs) charged that it was likely the result of abuse by prison authorities. No investigation was being conducted at year's end.

On March 10, gendarmes killed three residents, injured several others, and destroyed property during a raid on Bossoura village in Poni; six residents were arrested and subsequently sentenced to prison terms from one to three years. The raid

occurred after a mob from Bossoura broke into the local gendarmerie station and freed a prisoner suspected of assault and theft. The gendarmes charged that the villagers had fired at them when they tried to re-arrest the freed suspect. The Burkinabe Movement for Human Rights (MBDHP), the country's largest human rights organization and a vocal critic of the government, denounced the raid and demanded that the security minister take action against the responsible gendarmes; however, no action had been taken by year's end.

No further action was taken during the year against security forces believed to be responsible for the following 2004 killings: The February torture and killing of Badolo Wango; the April deaths of two criminal suspects; and the July death in detention of Pitroipa Yemdaogo.

There were no developments in any of the reported 2003 killings by security forces.

During the year regional governor Kilimite Hien instructed security forces to execute suspected highway bandits. Similar orders reportedly were issued in other areas of the country. The government had made no comment on the instructions by year's end.

Societal violence resulted in deaths and injuries during the year (see section 1.c.). On September 1, the body of an unidentified man was found along the roadside in Ouagadougou. Witnesses alleged that an angry mob lynched the man after he attempted to break into a store. An investigation was ongoing at year's end.

There were no developments in the April 2004 societal killings in Sigle county seat and Tiemnore village.

During the year the government continued to distribute funds from the \$9 million (5 billion CFA francs) fund to compensate the families of victims of the political violence that occurred between 1983 and 1997. By year's end \$6.5 million (3.7 billion CFA francs) had been distributed.

Unlike in the previous year, there were no deaths or injuries that resulted from land use conflicts between farmers and herders. During the year the 19 Kassena farmers accused of such killings in 2004 were released pending trial, remained in detention at year's end. The case of the 15 Kassena farmers arrested for the June 2004 killings of 10 Fulani herders was settled out of court, and the farmers were released.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices, members of the security forces continued to abuse persons with impunity, and suspects were frequently subjected to beatings, threats, and, on occasion, torture to extract confessions. Abuse by security forces resulted in deaths (see section 1.a.).

On February 27, two army recruits in Ouahigouya, Yatenga Province, beat high school teacher Aristide Kambou for allegedly harassing a local beer vendor. Kambou's family filed a case in court, but no action had been taken against the two recruits by year's end.

On June 10, six soldiers from the Bobo-Dioulasso airbase beat Jonathan Bonkian for allegedly insulting them. The soldiers reportedly received disciplinary sanctions. The family filed a court complaint to seek stricter punishment, and the case was pending at year's end.

On August 27, police in Bobo-Dioulasso beat Desire Sanou with batons and a metal ruler to extract a confession that he had stolen a mobile phone. The family filed a case in court, but no action had been taken against the police officers by year's end.

Police beat a journalist and forcibly dispersed demonstrators and strikers during the year (see sections 1.d., 2.a., and 2.b.).

No action was taken against police who arrested, stripped naked, and beat with rubber batons 11 residents of Yako, Passore Province in 2004.

Societal violence was a problem. On September 2, a mob severely beat Noufou Bance for suspected witchcraft and destroyed his home and other property in Ouaregou village, Boulgou Province. Police arrested 10 suspects, who were awaiting trial at year's end.

Prison and Detention Center Conditions.—Prison conditions were harsh and could be life threatening. Prisons were overcrowded, and medical care and sanitation were poor. The prison diet was inadequate, and inmates often relied on supplemental food from relatives. Pretrial detainees usually were not held separately from convicted prisoners.

Prison authorities granted prison visits at their discretion. Permission generally was granted, and advance permission was not required. Prison observers visited prisons during the year.

d. Arbitrary Arrest or Detention.—The constitution prohibits arbitrary arrest and detention; however, the government did not observe these prohibitions in practice.

Role of the Police and Security Apparatus.—The national police, under the Ministry of Security, and the municipal police, under the Ministry of Territorial Administration, are responsible for public security. Gendarmes reporting to the Ministry of Defense also are responsible for some aspects of public security. Corruption was widespread, particularly among lower levels of the police, and impunity was a serious problem. The gendarmerie is responsible for investigating police and gendarme abuse; however, the government took no known disciplinary action against those responsible for abuses, and the climate of impunity created by the government's failure to prosecute abusers remained the largest obstacle to ending abuses.

On February 18, police and police cadets began a strike to demand transparency in the assignments process, better equipment and training, higher pay, and the right to join a union. The government used riot police to forcibly disperse the march, expelled 500 cadets, and closed the police academy for nearly a month. Under pressure from the police force, President Compaore reopened the school and reinstated the cadets, once they apologized.

Arrest and Detention.—The constitution provides for the right to expeditious arraignment, bail, access to legal counsel after a detainee has been charged before a judge, and if indigent, access to a lawyer provided by the state; however, authorities did not ensure due process.

Police arbitrarily arrested demonstrators and a journalist during the year (see sections 2.a. and 2.b.).

On February 9, police released Noel Yameogo after he reportedly agreed to cooperate with the state's investigation of opposition leader Hermann Yameogo. Since his September 2004 arrest of treason charges, Noel Yameogo was held in solitary confinement and was not allowed visits from his family or his lawyer, according to press reports.

On March 30, two of the remaining four persons detained in connection with the October 2003 coup plot received presidential pardons and were immediately released; the other two remained in prison at year's end.

The law limits detention for investigative purposes without charge to a maximum of 72 hours, renewable for a single 48-hour period, although police rarely observed these provisions in practice. The average time of detention without charge was a week, and the law permits judges to impose an unlimited number of six-month preventive detention periods. Defendants without access to legal counsel were often detained for weeks or months before appearing before a magistrate. In some cases prisoners were held without charge or trial for longer periods than the maximum sentence they would have received if convicted of the alleged offense. Approximately 72 percent of those held in Ouagadougou Prison were pretrial detainees. There was a pretrial release system; however, the extent of its use was unknown.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the judiciary was subject to executive influence in practice. The president has extensive appointment and other judicial powers. Constitutionally, the head of state also serves as president of the superior council of the magistrature, which nominates and removes senior magistrates and examines the performance of individual magistrates. Systemic weaknesses in the justice system included the removability of judges, outdated legal codes, an insufficient number of courts, a lack of financial and human resources, and excessive legal costs.

There are four operational higher courts: The Supreme Court of Appeal; the council of state; the audit court and office; and the constitutional council. Beneath these higher courts are 2 courts of appeal and 20 provincial courts. There is a high court of justice with jurisdiction over the president and senior government officials. In addition, there is a tribunal to try persons under 18 who are charged with felonies or misdemeanors as children rather than adults. Customary or traditional courts presided over by village chiefs handled many neighborhood and village problems, such as divorce and inheritance disputes. Citizens generally respected these decisions but also could take a case to a formal court.

Trial Procedures.—Trials are public but do not use juries. Defendants are presumed innocent and have the right to consult and be represented by an attorney. Defendants can challenge and present witnesses and have the right of appeal. While these rights were generally respected, citizens' ignorance of the law and a continuing shortage of magistrates limited the right to a fair trial.

Military courts tried only military cases and were subject to executive influence.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The constitution prohibits such actions, and the government generally respected these prohibitions in practice. In national security cases, a law permits surveillance, searches, and monitoring of telephones and private correspondence without a warrant. By law and under normal circumstances, homes may be searched only with the authority of a warrant issued by the attorney general.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government at times restricted these rights and intimidated journalists into practicing self-censorship. The president and his government remained sensitive to criticism. The independent press, particularly the written press, continued to exercise great freedom of expression.

The official media, including the daily newspaper *Sidwaya*, and the national radio and television displayed a progovernment bias. There were numerous independent press, radio, and television stations, some of which were critical of the government. Foreign radio stations broadcast without government interference.

All media were under the administrative and technical supervision of the Ministry of Information. The Superior Council of Communication, which was under the presidential office and had limited independence, regulated the media industry.

On February 3, six policemen from Bobo-Dioulasso beat journalist Urbain Kabore following a heated discussion over press access to returning Hajj pilgrims. The newspaper filed a case in court; however, no action had been taken against the police by year's end.

There were no new developments in the government's investigation of the 1998 killing of journalist Norbert Zongo, who had been investigating a scandal close to the presidency. This case continued to be a high-priority for both international and domestic human rights activists, who on December 13 commemorated his killing with a march to demand the arrest and trial of those responsible.

Journalists charged with libel may defend themselves in court by presenting evidence to support their allegations, but the burden of proof rests with journalists.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—Although the law provides for freedom of assembly, the government at times restricted this right in practice.

Political parties and labor unions are allowed to hold meetings and rallies without requesting government permission. However, advance notification is required for planned demonstrations that might threaten public peace. Penalties for violation of the advance notification requirement include two to five years' imprisonment. Denials or modifications of the requested march route or schedule may be appealed before the courts.

On February 18, riot police forcibly dispersed striking police (see section 1.d.).

On April 23 and June 2, youths believed to be supporters of the ruling CDP attacked authorized marches by the Collective for the Defense of the Constitution (CODECO). The police subsequently arrested and detained CODECO activists for several hours; no CDP supporters were arrested.

On July 7, security forces in Bobo-Dioulasso threatened to arrest and forcibly disperse an unapproved march by civil society organizations protesting the rising cost of living and the lack of security in the city's industrial zone. The organizations cancelled the march.

No action was taken against police responsible for the violent dispersal of Ouagadougou merchants in February 2004.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. Political parties and labor unions were permitted to organize without seeking government permission.

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

The government required that religious groups register with the Ministry of Territorial Administration. There were no penalties for failure to register. All groups were given equal access to licenses, and the government approved registrations in a routine fashion.

Societal Abuses and Discrimination.—There is no Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 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 re-

spected them in practice. Gendarmes and police agents routinely stopped travelers for identity checks and to levy road taxes. Customs agents stopped travelers for customs checks.

Unlike in the previous year, there were no reports that the government confiscated passports from political leaders.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against refoulement, the return of persons to a country where they faced persecution, and granted refugee or asylum status. The government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention/1967 protocol. There were 521 persons with refugee status and 541 persons who had requested refugee status residing in the country. Most were nationals of Cote d'Ivoire, Togo, Rwanda, Burundi, the Democratic Republic of the Congo, and the Republic of the Congo; others were from Chad and Liberia. Almost all the refugees and applicants lived in Ouagadougou.

During the year the government's National Refugee Committee and UNHCR continued their efforts to respond to the needs of refugees. Some refugees asked the UNHCR to send them to third countries; these requests were being evaluated at year's end.

Despite increased violence in Cote d'Ivoire, there were fewer Burkinabe returnees from Cote d'Ivoire than in previous years. Burkinabe returnees reported physical abuse, harassment, and extortion from Ivorian police officials.

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 through multiparty elections; however, in practice citizens were unable to exercise this right fully due to the continued dominance of the president and his ruling party.

Elections and Political Participation.—In 2001 the National Assembly decided a constitutional amendment providing for presidential term limits was not explicitly retroactive and would not be applied to President Compaore. On August 10, President Compaore announced his decision to seek a third term as president. On October 2, the constitutional court ruled that there was no legal impediment to Compaore's candidacy, overruling appeals by several opposition candidates.

On November 13, President Blaise Compaore won the presidential election with 80 percent of the vote. Opposition candidate Benewende Sankara, the closest runner-up, received 5 percent of the vote. Despite minor irregularities, international observers considered the election free but not entirely fair due to the resource advantage held by the president.

The government-funded Independent National Electoral Commission (CENI) has full responsibility for managing its budget and is the only organization responsible for monitoring elections and referendums. Five representatives of opposition parties served on the CENI in addition to five representatives of progovernment parties and five representatives from civil society.

In April 2004 the National Assembly adopted a controversial bill to revise the electoral code for municipal elections. The CDP claimed the law would correct imbalances in the previous system; however, opposition parties charged that the bill was designed to reverse reforms that facilitated large opposition gains in the 2002 legislative elections. Most observers believed the changes would favor larger and more organized parties.

Most appointed provincial officials, most traditional chiefs, and all but one of the country's mayors were members of the ruling CDP. On July 27, the Ministry of Territorial Administration removed the country's only opposition mayor for alleged mismanagement; however, the opposition-dominated city council elected another opposition member to replace him.

CDP membership conferred advantages, particularly for businessmen and traders in competition for open bidding contracts.

There were 12 women in the 111-seat National Assembly and 3 women in the 31-member cabinet. The cabinet included 17 minority members; the National Assembly included 61 minority representatives.

Government Corruption and Transparency.—Official corruption was a serious problem, especially in the police and customs services. At the outset of the country's food crisis during the summer, police arrested several regional officials for embezzling food aid, and in September the government removed the minister of basic education and literacy for alleged corruption. However, despite the citation of numerous instances of high-level corruption in the 2004 report of the High Authority to Fight Against Corruption, no senior officials were prosecuted for corruption during the year.

There were no laws that provided for public access to government information; however, government ministries generally released nonsensitive documents.

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

A number of human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

The government permitted international human rights groups to visit and operate in the country. The MBDHP was affiliated with the Inter-African Human Rights Union.

The National Commission on Human Rights serves as a permanent framework for dialogue on human rights concerns and included representatives of human rights NGOs, unions, professional associations, and the government. The MBDHP did not participate on the commission and continued to charge that the commission was subject to government influence.

In April 2004 the UN Independent Commission of Inquiry released its report on human rights violations committed against Burkinabe refugees in Cote d'Ivoire. The report found that Ivorian security forces targeted specific communities of foreigners, including Burkinabe, in suppressing opposition demonstrations.

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

The law prohibits discrimination on the basis of race, ethnic origin, gender, disability, and social status; however, the government was not able to enforce this prohibition effectively. Discrimination against women and persons with disabilities remained a problem.

Women.—Domestic violence against women, especially wife beating, occurred frequently. No law specifically protects women from domestic violence, and cases of wife beating usually were handled through customary law and practice. Rape was a crime, although there were no statistics on rape. There is no explicit discussion of spousal rape in the law, and there have been no recent court cases. There were organizations that counseled rape victims, including Catholic and Protestant missions, the Association of Women Jurists in Burkina, the MBDHP, the Association of Women, and Promofemmes—a regional network that works to combat violence against women. The government continued efforts to change attitudes toward women through media campaigns.

FGM was practiced widely, especially in many rural areas, and usually was performed at an early age. Up to 70 percent of girls and women have undergone this procedure. The government has demonstrated its commitment to eradicate FGM through education, and the National Committee for the Fight Against Excision (CNLPE) reported that the incidence of excision has decreased by approximately 40 percent since 1996, when the parliament passed legislation making FGM a crime. Perpetrators were subject to a significant fine and imprisonment of 6 months to 3 years, or up to 10 years if the victim died. More than 400 persons have been sentenced since 1996 for perpetrating FGM. "Operation Hotline," established by the CNLPE to provide citizens with a fast and anonymous way to report violations, received approximately 150 calls during the year.

On April 17, the tribunal of Dedougou, Mouhoun Province, sentenced Mariam Ouedraogo to one year imprisonment and two of her accomplices to eight months' imprisonment for practicing FGM on nine girls in Siwi village, Mouhoun Province.

On August 25, gendarmes in Ouahigouya arrested Kadiiso Ouedraogo for practicing FGM on eight girls in Ouahigouya city and Bissiguin village, Yatenga Province. Ouedraogo was in prison awaiting trial at year's end.

On September 2, gendarmes arrested Azeta Ouedraogo for practicing FGM on 16 girls in Tansaliga village, Loroum Province. Ouedraogo was in prison awaiting trial at year's end.

Yiere Mamou Berte, who was arrested in January 2004 for practicing FGM on 41 girls in Sefina village, remained in prison awaiting trial at year's end.

During the year the woman arrested in August 2004 for practicing FGM on 12 girls ranging in age from 2 to 12 was sentenced to 3 years' imprisonment. The case

received widespread media coverage because of the public outcry that the practice still occurred in metropolitan areas.

The law does not specifically prohibit prostitution; however, pimping and soliciting are illegal. Prostitution was widespread and tolerated by security forces.

There were occasional reports of trafficking in women (see section 5, Trafficking).

The law explicitly prohibits sexual harassment, but such harassment was common.

The law prohibits forced marriage, with specific penalties for violators. Polygyny was permitted, but both parties must agree to it prior to a marriage, and the woman could oppose further marriages by her husband if she could provide evidence that he abandoned her and her children. Either spouse could petition for divorce; custody of children was granted to either parent based on the children's best interests.

Women continued to occupy a subordinate position and experienced discrimination in education, jobs, property, and family rights. Although the law provides equal property rights for women and inheritance benefits depending on other family relationships, in practice traditional law prohibits women from the right to own property, particularly real estate. In rural areas, land belonged to the family of the man whom a woman married. Women still did much of the subsistence farming work. Traditional law does not recognize inheritance rights for women and regards the woman as property that can be inherited upon her husband's death.

Overall, women represented 45 percent of the workforce. In the modern sector, women comprised one-fourth of the government workforce, although they usually held lower paying positions. The Ministry of Women's Promotion actively promoted women's rights during the year, and the minister was a woman. During the year the government continued to establish income-generating activities for women, including the production of fabric, shea butter, and soap.

Several NGOs were active in promoting women's rights, including Women in Law and Development in Africa, Association of Female Judges, Association of Elected Women of Burkina Faso, Women's Coalition of Burkina Faso, and Kebayina Association of Women of Burkina Faso.

Children.—The constitution nominally protects children's rights. The government demonstrated its commitment to improve the condition of children by continuing efforts, in cooperation with donors, to revitalize primary health care by including care for nursing mothers and infants; vaccination campaigns for measles, meningitis, and other illnesses; and health education.

The government allotted approximately 25 percent of the national budget to education, and the law provides for free compulsory primary education until the age of 16; however, the government lacked the means to provide universal, free primary education. If a child qualified on the basis of grades and social condition (that is, the family was "poor"), tuition-free education could continue through junior high and high school. Children still were responsible for paying for school supplies, which often cost significantly more than tuition. Many parents could not afford to lose a child's labor in the fields or at other remunerative jobs; as a result, overall school enrollment was approximately 57 percent (51 percent for girls). The government has promoted primary education for girls through encouragement of donor scholarships, school feeding programs, and information campaigns to change societal attitudes toward educating girls. In the primary school system, girls made up slightly more than one-third of the student population. Schools in rural areas had even lower percentages of female students, and illiteracy for girls in the rural areas were as high as 95 percent. The rate of male literacy was approximately 32 percent, and female literacy was 15 percent.

The law prohibits the abuse of children under 15 years old and provides for the punishment of abusers; however, corporal punishment was accepted and widely practiced.

Scarification of the faces of both boys and girls of certain ethnic groups was gradually disappearing.

FGM was performed commonly on young girls (see section 5, Women).

Several NGOs believed that child marriage was a problem in the provinces of Senou, Soum Fada, Pama, and Diapaga; however, there were no reliable statistics.

Trafficking of children was a problem (see section 5, Trafficking).

Trafficking in Persons.—The law prohibits trafficking in children; however, the country was a source, transit, and destination country for internationally trafficked persons, including children. The law also specifically prohibits slavery, inhumane treatment, and mistreatment of children and adults, kidnapping, violence, and mistreatment of children. The penalty for child trafficking is 1 to 10 years' imprisonment and fines from \$525 (299,250 CFA francs) to \$2,600 (1.5 million CFA francs). The sexual exploitation of children was a problem.

Since 2004 police have arrested 41 child traffickers and intercepted 921 trafficked children: at year's end, 16 traffickers had been sentenced to prison; 6 were being tried; and 19 were in detention awaiting trial.

The ministries of social affairs and labor were responsible for enforcing trafficking and child labor laws and regulations; however, the government had limited resources to combat trafficking.

The government has cooperated with Cote d'Ivoire in several trafficking cases and signed a cooperative agreement with the government of Mali to combat transborder child trafficking.

The country was an occasional source for women who traveled to Europe to work as domestics but subsequently were exploited sexually. The country was a transit point for trafficked children, notably from Mali, who often were trafficked to Cote d'Ivoire. Malian children also were trafficked into the country. Destinations for trafficked children from the country included Mali, Cote d'Ivoire, Ghana, Benin, and Nigeria.

Trafficked children were subject to violence, sexual abuse, forced prostitution, and deprivation of food, shelter, schooling, and medical care. Organized child trafficking networks existed throughout the country, and during the year security forces dismantled four such networks. Child trafficking networks cooperated with regional smuggling rings.

According to the 2004–05 report by the Protection of Infants and Adolescents office, security forces intercepted 921 trafficked children, more than half of whom were girls; 158 were destined for international trafficking.

The government worked with international donors and the International Labor Organization to address child trafficking, in part by organizing seminars against child trafficking for customs officers. During the year security services and civil society groups organized similar workshops and seminars. The government also established watch committees in certain provinces in which child trafficking and labor were problems. The watch committees included representatives of industries usually implicated in child labor (cotton growers, for example), the police, NGOs, and social welfare agencies. An IPEC program to prevent child trafficking for work purposes on cotton plantations continued during the year.

From 2003–04 the NGO Research Action Group for an Endogenous Development of Rural Women in Burkina Faso conducted a nationwide education campaign that reached 700 thousand persons and established a rehabilitation center that rehabilitated 70 trafficked children. The government operated a center in Ouagadougou to assist with the social reintegration of trafficked children. In a joint venture with UNICEF, the government operated 19 transit centers for trafficked children. In 2004 these centers served 921 children, 158 of whom were foreign children. Children typically stayed in the transit centers for a few days before being returned to their families. The government also used financial assistance from UNICEF and other aid partners to assist victims and their families.

Persons with Disabilities.—There was no legislation to protect persons with disabilities from discrimination, and advocates reported that such persons often faced social and economic discrimination. There was no government mandate or legislation concerning accessibility for persons with disabilities. Programs to aid persons with disabilities were limited. Persons with disabilities who were willing and able to work frequently found it difficult to find employment, including in government service, because of deeply entrenched societal attitudes that persons with disabilities should be under the care of their family and not in the workforce.

Other Societal Abuses and Discrimination.—Societal discrimination against homosexuals and persons with HIV/AIDS was a problem. Persons who tested positive for HIV/AIDS were sometimes shunned by their families, and HIV/AIDS positive wives were sometimes evicted from their homes.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers, including civil servants, the right of association, and workers exercised this right. Essential workers such as police could not join unions. Approximately 85 percent of the workforce was engaged in subsistence agriculture and did not belong to unions. Of the remainder approximately 50 percent of private sector employees and 60 percent of public sector employees were union members.

The law prohibits antiunion discrimination.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. Unions have the right to bargain directly with employers and industry associations for wages and other benefits, and there was extensive collective bar-

gaining in the modern wage sector; however, it encompassed only a small percentage of workers. There are no export processing zones.

The law provides for the right to strike, and workers exercised this right. On May 10, all the major trade union federations and autonomous unions called a strike to demand higher salaries and pensions, a decrease in taxes on basic products, and the reopening of the central market. Some public institutions and private enterprises were closed. None of the strikers' demands were met by year's end.

During the year the president expelled 500 police cadets from the police academy and closed the academy in response to a strike by police and police cadets (see section 1.d.).

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that children were used for domestic labor outside their own families without any status or formal remuneration and that young girls were procured for domestic labor (see sections 5 and 6.d.).

Trafficking in persons, including children, was a problem (see section 5.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law sets the minimum age for employment at 14 years; however, child labor was a problem. The minimal age for employment was inconsistent with the age for completing educational requirements, which was 16 years. In the domestic and agricultural sectors, the law permits children under the age of 14 to perform limited activities for up to 4½ hours per day; many children under the age of 14 years worked longer hours. An estimated 50 percent of children worked, largely as domestic servants or in the agricultural or mining sectors, where working conditions were harsh. Children commonly worked with their parents in rural areas or in family-owned small businesses in villages and cities. There were no reports of children under the age of 14 employed in either state or large private companies.

Trafficking of children was a problem (see section 5).

The Ministry of Employment, Labor, and Youth, which oversees labor standards, lacked the means to enforce work safety and age limit legislation adequately, even in the small business sector. Punishments for violating child labor laws included prison terms of up to 5 years and fines of up to \$1,078 (600 thousand CFA francs).

The government organized workshops during the year, and in cooperation with donors, has undertaken many sensitization programs to inform children and parents of the dangers of sending children away from home to work.

e. Acceptable Conditions of Work.—The law mandates a minimum monthly wage of approximately \$53 (22,800 CFA francs) in the formal sector; the wage does not apply to subsistence agriculture. The minimum wage did not provide a decent standard of living for a worker and family. Wage earners usually supplemented their income through reliance on the extended family, subsistence agriculture, or trading in the informal sector. The law also mandates a standard workweek of 40 hours for nondomestic workers and a 60-hour workweek for household workers, provides for overtime pay, and establishes safety and health provisions.

A system of government inspectors under the Ministry of Employment, Labor, and Youth and the labor tribunals were responsible for overseeing occupational health and safety standards in the small industrial and commercial sectors, but these standards did not apply in the subsistence agricultural sector. The government's Labor Inspector Corps did not have sufficient resources to fulfill its duties adequately. Every company was required to have a work safety committee. If the government's Labor Inspection Office declared a workplace unsafe for any reason, workers had the right to remove themselves from the dangerous work without jeopardy to continued employment. There were indications that this right was respected in practice, although such declarations by the Labor Inspection Office were relatively rare.

BURUNDI

Burundi is a constitutional republic with an elected government that governs a population of 6.8 million. In February 90 percent of citizens voted to adopt a new constitution. Following local and parliamentary elections in June and July, the country's two houses of parliament indirectly elected as president Pierre Nkurunziza, a member of the National Council for the Defense of Democracy-Forces for the Defense of Democracy (CNDD-FDD) political party on August 19. International observers reported that the elections, which ended a four-year transitional process under the Arusha Peace and Reconciliation Agreement, were generally free

and fair. Although the CNDD–FDD party dominated parliament and government, other major parties, notably the Burundian Front for Democracy (FRODEBU) and the Union for National Progress (UPRONA), were also represented.

The country remained engaged in an armed conflict between the government and the Party for the Liberation of the Hutu People/National Liberation Front (PALIPEHUTU–FNL) led by Agathon Rwasa. Although the security situation remained calm in most of the country, fighting continued in Bujumbura Rural Province, which surrounds the capital and was the traditional stronghold of the PALIPEHUTU–FNL. During the year fighting between the National Defense Force (FDN) and the PALIPEHUTU–FNL spread to the neighboring provinces of Bubanza, Kayanza, Muramvya, and Cibitoke.

During the year members of former rebel groups, including the CNDD–FDD, were integrated into the military, which changed its name from the Burundian Armed Forces (FAB) to the FDN. Members of former rebel groups who were not integrated into the FDN were demobilized; by September approximately 16,400 former rebels and soldiers had been demobilized. The government began a demobilization process for civilian militia groups, including the Guardians of the Peace (GP), in September. While civilian authorities generally maintained effective control of the security services, there were several instances in which elements of the security forces acted independently of government authority.

The human rights record of both the transitional and post-transitional governments remained poor; despite improvements in some areas, both governments continued to commit numerous serious human rights abuses. In relation to the country's human rights situation in 2004, political rights increased significantly following the adoption by referendum of a new constitution and national elections. In addition humanitarian relief agencies had greater access to local populations, the government demobilized and reintegrated into society thousands of former child soldiers, and trade unions had greater freedom to assemble and demonstrate peacefully. Freedom of the press worsened, primarily amid electoral tensions. In addition refugee and asylum seeker rights deteriorated markedly. The government also cooperated to a much lesser extent with UN agencies and international organizations aiding refugees and asylum seekers. Widespread poverty, food shortages in some parts of the country, lack of basic infrastructure, and a high level of foreign debt contributed to the overall poor human rights situation. The following human rights problems were reported:

- security force killings of civilians, including suspected PALIPEHUTU–FNL supporters
- torture and beatings of civilians and detainees by security forces
- rape of women and young girls by security forces
- impunity
- harsh and life-threatening prison and detention center conditions
- arbitrary arrest and detention
- prolonged pretrial detention
- corruption and inefficiency in the judiciary
- looting and destroying of houses by security forces
- restrictions on freedoms of the press and assembly
- routine displacement of civilians as a result of fighting between government and rebel forces
- violation of the rights of thousands of refugees and asylum seekers
- violence, acts of rape, and discrimination against women
- trafficking in persons
- child labor, including forced child labor

The PALIPEHUTU–FNL continued to commit numerous serious human rights abuses against civilians, including killings, indiscriminate shelling of civilian areas, kidnappings, rapes, theft, extortion, the forcible recruitment and employment of children as soldiers, and the use of forced labor.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that security forces committed political killings; however, security forces committed summary executions and other unlawful killings of civilians during the year (see section 1.g.).

In May a court handed down verdicts in the 2001 killing of World Health Organization representative Kassi Manlan. The court sentenced 4 individuals to death, 3 to life in prison, 2 to 20 years in prison, and several others to prison sentences ranging from 2 to 10 years. Colonel Gerard Ntuzwenayo, a former deputy administrator in the national intelligence service, was sentenced to death for his role in the murder. The court decided that Sylvestre Manirakiza was not involved in the murder. At year's end he was serving as the deputy commander of the National Police in Bururi Province.

The FDN committed unlawful killings, often with impunity, of civilians following fighting with rebels, in reprisal for rebel attacks and for suspected collaboration with rebels (see section 1.g.).

During the year there were reports that suspects were killed while in the custody of security forces. For example League Iteka, a domestic nongovernmental organization (NGO), reported that on March 20, police officers severely beat accused thief Mwafica Masema in the Rugombo commune jail in Cibitoke Province. He died three days later from injuries sustained during the beating.

Between May and November, there were UN-documented reports that FDN forces arbitrarily arrested and tortured to death several suspected PALIPEHUTU-FNL supporters. For example on June 18, FDN soldiers in the Mutimbuzi commune of Bujumbura Rural Province arrested, beat to death, and then burned the corpse of a man thought to be a member of the PALIPEHUTU-FNL, according to the UN.

Security forces and intelligence service agents committed unlawful killings. The UN reported that on May 14, FDN soldiers in the Bujumbura Rural Province town of Gatumba robbed and beat two individuals, one of whom died from his injuries. On August 18, FDN soldiers shot and killed an unidentified man in Nyarabira commune in Bujumbura Rural Province. By year's end authorities had not opened an official inquiry in either case.

There were no developments in the following killings committed by security forces in 2004 and 2003: the February killing of Melchiade Basinga and his wife; the May killing of a bicycle taxi operator in Bujumbura by local gendarmerie; the August beating to death of Albert Ntahomvukiye; the September killing of an alleged thief in military custody; the 2003 killing of Abraham Nshirimana, allegedly by soldiers; or in the 2003 torture death of FAB soldier Mathias Nkurunziza.

Civilians were killed during fighting between government and rebel forces (see section 1.g.).

There continued to be reports of deaths and injuries caused by unexploded ordnance and landmines laid in previous years by both government and rebel forces (see section 1.g.). The country had a national de-mining program, and in the past had had persons trained in de-mining, but it was unclear if they were actively engaged in de-mining at year's end. A national mine survey—to establish the scope of the problem—was underway at year's end. The UN and two NGOs also did limited de-mining and educational activities.

Although few precise figures were available, there were numerous political killings by unidentified assailants during the year, the majority of which took place in Bujumbura Rural Province.

On January 23, in the Bubanza Province town of Gihanga, unidentified assailants ambushed a vehicle carrying Bubanza Province Governor Isaie Bigirimana and three other individuals. The assailants made the occupants lay face-down on the road and fatally shot Bigirimana and one of the other passengers. The assailants remained at large at year's end.

On March 11, unidentified assailants killed local government officials Emmanuel Munyana and Charles Ntamirengero in the Isale commune of Bujumbura Rural Province. On April 23, unidentified assailants killed a sector chief in Nyabira Commune, Bujumbura Rural Province. No official action had been taken by year's end.

Unidentified assailants also killed several political party candidates during the country's communal and legislative election campaigns. For example on May 31, unidentified assailants killed a CNDD-FDD candidate in the Muhuta commune of Bujumbura Rural Province. On June 2, unidentified assailants killed two FRODEBU candidates and eight supporters in the Mpanda commune of Bubanza Province. On June 18, unidentified assailants killed two FRODEBU members and wounded a dozen others in Bujumbura during a grenade attack on a bar owned by a prominent FRODEBU politician. No official action was taken in any of these cases.

There were no developments in the September 2004 killing of CNDD-FDD commune representative Sebastien Bamporubusa by armed men, or of the more than 30 other local government officials killed by unknown assailants in 2004. There were no developments in the 2003 killings by unknown assailants.

Unlike in the previous year, there were no reports that the GP committed killings, rapes, or armed robberies during the year.

The PALIPEHUTU–FNL rebels killed numerous persons during the year and committed serious abuses against the civilian population (see section 1.g.).

Killings by bandits continued to be a serious problem during the year, particularly during ambushes of passenger vehicles on the main roadways from Bujumbura. Unidentified bandits were also responsible for numerous killings while robbing individuals' houses.

There were numerous reports during the year of mob violence, lynchings, and the killing of suspected witches. For example on February 15, a mob in Bujumbura lynched and burned several individuals accused of stealing a motorcycle.

On March 13, a mob in the Musongati commune of Rutana Province killed a "rain bringer" for not successfully bringing rain. According to UN reports, local authorities were complicit in the killing.

On June 8, a group of individuals armed with clubs beat to death a woman accused of sorcery in the Nyabihanga commune of Mwaro Province.

During the year the local press reported numerous incidents in which individuals threw grenades into bars or other public gathering places, resulting in deaths and injuries. For example on May 29, an unidentified individual threw a grenade into a bistro in the Nyamurenza commune of Ngozi Province that killed two persons and wounded seven others.

b. Disappearance.—There were no reports of politically motivated kidnappings; however, there were an unknown number of kidnappings during the year.

For example the UN reported that in January, CNDD–FDD forces kidnapped four persons in the Kabezi commune of Bujumbura Rural Province. The perpetrators reportedly released the four individuals after they paid a ransom.

The PALIPEHUTU–FNL was responsible for many disappearances during the year. For example on July 18, a group of armed men believed to be members of the PALIPEHUTU–FNL kidnapped a communal official in the Isale commune of Bujumbura Rural Province. The victim's whereabouts remained unknown at year's end.

There were no developments in the July 2004 kidnapping of four persons by members of the CNDD–FDD in the Kanyosha commune of Bujumbura Rural Province, or in the February 2004 kidnapping of six persons in the Ndava commune of Mwaro Province.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the constitution prohibits such practices, members of the security forces continued to torture and otherwise abuse persons, which reportedly resulted in several deaths.

Throughout the year multiple credible sources reported that the security forces maintained illegal detention and torture centers across the country.

League Iteka, the UN, Human Rights Watch (HRW), and the Burundian Association for the Protection of Human Rights and Detained Persons (APRODH) reported that members of the security forces beat and tortured civilians and detainees throughout the year.

Multiple credible sources reported that agents of Documentation National (DN), the civilian intelligence service, arbitrarily detained and tortured people thought to be members and supporters of the PALIPEHUTU–FNL. According to these sources, DN agents tortured these individuals by beating them with batons, breaking their feet, tying them or chaining them, using clamps on their genitals, using needles on their feet, rubbing chili oil and salt into wounds, placing them in isolation chambers without food for prolonged periods of time, and repeatedly threatening to execute them. These sources also reported that DN Chief Major General Adolphe Nshimirimana was sometimes present while detainees were tortured.

There were frequent reports by League Iteka and APRODH that prison authorities tortured detainees and prisoners using methods similar to those described above.

On January 17, in the Rubira commune of Bujumbura Rural Province, members of the FDN detained and beat a man who refused to give them his bicycle.

After a March 21 visit to a detention facility in Bujumbura, League Iteka reported that four detainees showed signs of having been beaten with batons and clubs.

On April 7, in the Nyarabira commune of Bujumbura Rural Province, members of the FDN detained five brick masons after they passed nearby a military position. FDN members reportedly beat them during their detention before eventually releasing them.

There were no developments in the February 2004 torture of civilians by CNDD–FDD members, the April 2004 robbery and beating of a judge by soldiers, the April

2004 torture of civilians in the Mutimbuzi commune of Bujumbura Rural Province by CNDD–FDD members, or the September 2004 beating of five students by CNDD–FDD members in the Mutimbuzi commune of Bujumbura Rural Province.

Although precise figures remained unavailable, there were numerous reports that members of the security forces raped women and young girls with impunity (see section 1.g.). For example members of the FDN reportedly committed at least 21 rapes in February in Kayanza, Muramvya, and Cibitoke provinces; 11 of these cases involved minors.

On May 24, two men, one of whom was an FDN soldier, raped a woman in Bujumbura. Although police arrested one of the two men, the soldier evaded arrest; no additional information was available at year's end.

According to HRW, on September 13, a uniformed police officer in the Gihanga commune of Bubanza Province raped a woman after forcing her husband to the ground at gunpoint. The woman reported his name and service number to the local judicial police, but the perpetrator had not been arrested and was still seen in the neighborhood at year's end.

There were reports that PALIPEHUTU–FNL members raped women, but there were fewer reports of rape by PALIPEHUTU–FNL members than in previous years (see section 1.g.).

Government troops used excessive force in areas where there were civilians (see section 1.g.).

Several persons were injured during the year by unexploded ordnance and landmines laid in previous years by government and rebel forces (see section 1.g.).

Prison and Detention Center Conditions.—Prison conditions remained harsh and sometimes life threatening. Severe overcrowding persisted. According to government officials and human rights observers, prisoners suffered from digestive illnesses, dysentery, and malaria, and prisoners died as a result of disease. According to APRODH, although there were reports that security forces members beat detainees, there were no reports that prison guards beat prisoners; however, the UN peacekeeping mission in Burundi (ONUB) reported that detainees and prisoners were tortured and abused. Each jail had one qualified nurse and at least a weekly doctor's visit. Serious cases were sent to local hospitals. The International Committee of the Red Cross (ICRC) was the primary provider of medicines. The government provided insufficient food. Detainees who were not held in communal lockups and prisoners received 600 grams of food per day from the government, and families often had to supplement prisoner rations.

According to the Ministry of Justice, during the year 7,969 persons were held throughout the country in facilities built to accommodate 3,650 persons. Of this number, 2,921 were serving sentences, 5,009 were pretrial detainees, and 39 were children accompanying their mothers. Human rights NGOs lobbied the government for the release of prisoners who were held for long periods of time without charge.

Conditions in detention centers and communal lockups were generally worse than prison conditions. Police personnel tortured and otherwise abused detainees, which resulted in death in several instances (see section 1.a.). Minors were not always separated from adult detainees, and ONUB documented some cases of sexual abuse. There were 400 communal lockups, or small detention centers, where those who were arrested were supposed to be held no longer than one week; however, in practice detainees were regularly kept in these facilities for much longer periods of time. The government did not provide food for persons held in communal lockups, and family members were required to provide all food for detainees in communal lockups. Once detainees were transferred to larger detention facilities, the government provided food. Communal lockups and other, larger detention centers were severely overcrowded, with limited or no provisions for medical care and no sanitation.

According to the Ministry of Justice, during the year there were 348 children in prisons, of whom 39 accompanied their convicted mothers. Juvenile prisoners were held with and often treated as adults. Political prisoners often were held with convicted prisoners. Pretrial detainees were held in communal lockups, but some were also incarcerated with convicted prisoners.

During the year the government permitted some visits by international and local human rights monitors, including the ICRC; however, municipal police commissioners and other authorities repeatedly denied ONUB human rights officers access to detainees, following accounts of illegal detentions and torture. Authorities also sometimes denied HRW, ICRC, and local NGOs access to detainees thought to have been tortured or illegally detained, who were often thought to be members of the PALIPEHUTU–FNL. In addition according to HRW, on October 20, authorities at the Interior Security Police (PSI) allowed government magistrates to visit some parts of the premises of the PSI, located in Kigobe, Bujumbura, but denied them

access to other parts. NGOs continued their efforts to monitor and improve sanitation, hygiene, medical care, food, and water.

d. Arbitrary Arrest or Detention.—The criminal code prohibits arbitrary arrest and detention, but security forces arbitrarily arrested and detained persons.

Role of the Police and Security Apparatus.—Both the national police and the FDN are responsible for internal security. The Ministry of Defense oversees the FDN, and the Ministry of the Interior oversees the national police, including the gendarmerie. The president directly controls the DN. The police deal with criminal matters and the FDN fulfills external security and counterinsurgency roles. In practice the FDN also arrested and detained criminals.

Members of the security forces were poorly trained. Corruption, disregard for the legal standards on the duration of detentions, and mistreatment of prisoners remained problems. An internal affairs unit within the police force investigated crimes committed by other police units. ONUB and various NGOs provided human rights training to the police. Impunity for those who committed serious human rights violations and the continuing lack of accountability for those who committed past abuses remained key problems. The security forces did not always cooperate with civilian prosecutors or magistrates, including in investigations involving members of the security forces.

Arrest and Detention.—The law requires arrest warrants in most cases, and presiding magistrates were authorized to issue them; however, police and the FDN could make arrests without a warrant but were required to submit a written report to a magistrate within 48 hours. Few aspects of these provisions were respected in practice. The requirement that detainees be charged and appear in court within seven days of their arrest was routinely violated. A magistrate could order the release of suspects or confirm charges and continue detention, initially for 15 days, then subsequently for 1 additional period of 30 days, as necessary to prepare the case for trial. Police were authorized to release suspects and to extend detention once for seven days. However, police regularly detained suspects for extended periods without announcing charges, certifying the cases, or forwarding them to the Ministry of Justice as required. Suspects are permitted lawyers in criminal cases at their own expense, but indigents were not provided an attorney at government expense. Multiple sources reported that incommunicado detention existed, although the law prohibits it.

During the year there were reports of politically motivated arrests and numerous reports of arbitrary arrests. For example on January 24, members of the military arrested a person passing near a military position in the Kabezi commune of Bujumbura Rural Province and held the individual for several days before releasing the individual.

Following the August inauguration of the new government, DN agents arrested several elected officials from the FRODEBU party, who the DN claimed were supporters or members of the PALIPEHUTU–FNL. Multiple sources reported that these arrests were motivated more by political than by security concerns. During their detention some of these FRODEBU officials were occasionally held incommunicado. By year's end some had been released, while others remained in custody.

During the electoral period between May and August, the FDN carried out mass arbitrary arrests of suspected PALIPEHUTU–FNL supporters, including widespread cordon-and-search operations.

According to the UN, on May 27 in Bujumbura, members of the FDN arrested 43 persons while robbing their houses; all were released by year's end after paying a \$9 (10 thousand Burundian francs) fine.

The government arrested journalists during the year (see section 2.a.). However, unlike in previous years, there were no reports that the government arrested demonstrators, labor officials, or local NGO employees.

After the August inauguration of the new government, there were numerous reports of police officers arbitrarily detaining individuals for supposed "moral offenses." Police arrested women for moral offenses after they wore "inappropriate clothing" to public beaches and nightclubs and after they left nightclubs with men who were not their husbands or male relatives. On some occasions, police officers would reportedly wait outside popular nightclubs to detain large groups, and on at least one occasion, police attempted to enter a nightclub in order to do so. Individuals detained for these moral offenses, none of which are prohibited by any formal law, were typically released after paying a fine.

There were reports of political detainees, including FRODEBU party members arrested following the inauguration of the new government.

Many of the persons arrested on criminal charges since 1993 remained in pretrial custody. According to the Ministry of Justice, 5,009 persons, or 63 percent of the

country's prison population, had not been convicted and were awaiting trial at year's end. Lengthy jail procedures, a large backlog in pending cases, judicial inefficiency, corruption, and financial constraints often caused trial delays. Irregularities in the detention of individuals, including holding them beyond the statutory limit, also continued. On several occasions individuals held illegally were released following intervention by ONUB.

e. Denial of Fair Public Trial.—Although the constitution provides for an independent judiciary, the judiciary was not independent of the executive and was dominated by members of the minority Tutsi community. The judicial system was inefficient and subject to bribes and other forms of corruption; many citizens had no confidence in its ability to provide even basic protection. Judicial reform was a priority of the Arusha Accord, but little progress was made during the year.

The judicial system consisted of civil and criminal courts with the Supreme Court and Constitutional Court at the apex. In all cases the Constitutional Court had the ultimate appellate authority, but few cases of lower-ranking offenders reached this level.

Citizens generally did not have regular access to court proceedings and often had to travel more than 30 miles to reach a court.

Trial Procedures.—All trials were conducted before a jury. Defendants, in theory, are presumed innocent and have a right to counsel but not at the government's expense, even for those who face serious criminal charges. Defendants have a right to defend themselves; however, in practice, few had legal representation since there were only some 80 registered lawyers in the entire country and since most persons could not afford a lawyer and had to plead their own cases. Authorities sometimes were unable to carry out their investigations or transport suspects and witnesses to the appropriate court because of lack of resources and poor security conditions. All defendants, except those in military courts, have the right to appeal their cases up to the Supreme Court, and in capital cases, to the president for clemency. In practice the inefficiency of the court system extended the duration of the appeals process, effectively limiting the possibility of appeals, even by defendants accused of the most serious crimes.

The government officially recognized the traditional system of informal communal arbitration, known as *Bashingantahe*, which functioned under the guidance of elders and facilitated the settlement and reconciliation of disputes. A *Bashingantahe* opinion often was necessary before access was granted to the formal civil court system. The *Bashingantahe* was limited to civil and minor criminal matters and had no jurisdiction over serious criminal matters. Community elders presided over deliberations, and no lawyers were involved under this system.

The law provides for an independent military court system, which in practice was influenced by the executive and higher-ranking military officers. Courts of original jurisdiction for lower-ranking military offenders were called "War Councils," and one existed in each of the country's five military districts. A court martial tribunal of appeals heard appeals of War Council decisions and also had trial jurisdiction for mid-ranking military offenders up to the rank of colonel. Military courts had jurisdiction over military offenders and civilians accused of offenses implicating members of the military.

Procedures for civilian and military courts were similar, but military courts typically reached decisions more quickly. Military trials, like civilian trials, generally failed to meet internationally accepted standards for fair trials. Defendants were not provided attorneys to assist in their defense, although NGOs have provided some defendants with attorneys in cases involving serious charges. Trials generally were open to the public but could be closed for compelling reasons, such as national security or "scandalous accusations against prominent people." Defendants in military courts are allowed only one appeal.

Political Prisoners.—The detention of political prisoners remained a problem during the year. Local human rights NGOs claimed that the government held more than three thousand political prisoners. Although the transition government asserted that there were no political prisoners, the government that took office in August stated that it would release all political prisoners. In November the government announced the establishment of a commission to vet political prisoners for early release, although none had been released by year's end. Charges against defendants convicted for nonpolitical crimes sometimes were politically motivated. International organizations and local human rights NGOs were generally afforded access to political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The constitution provides for the right to privacy, but this right was not respected in practice. Authorities rarely respected the law requiring search warrants. It was

widely believed that security forces monitored telephones. There also were numerous reports during the year that the security forces looted and destroyed houses whose occupants were accused of harboring and aiding the PALIPEHUTU–FNL (see section 1.g.).

There were numerous reports of looting by the PALIPEHUTU–FNL (see section 1.g.).

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—The ongoing conflict resulted in numerous serious abuses against the civilian population by government and rebel forces; generally no actions were taken against perpetrators. The security forces killed numerous civilians following fighting with the PALIPEHUTU–FNL, in reprisal for PALIPEHUTU–FNL attacks, and for suspected collaboration with the PALIPEHUTU–FNL. Abuses included the killing of civilians, the looting and burning of houses, attacks on noncombatants, the displacement of large numbers of civilians, and the rape of women. Unlike in previous years, security forces did not prevent international humanitarian aid agencies and human rights observers from accessing areas of the country.

While no definitive countrywide casualty figures were available, reports from media and NGOs estimated that more than 250 thousand persons, mostly civilians, have been killed in conflict-related violence since 1993. Much of the unlawful killing and property destruction during the year were concentrated in Bujumbura Rural Province, which was the scene of the majority of the fighting between the FDN and the PALIPEHUTU–FNL.

Although not as frequent as in previous years, there were reports that FDN forces deliberately killed civilians during the conflict. For example on January 18, in the Isale commune of Bujumbura Rural Province, members of the FDN executed a man suspected of collaborating with the PALIPEHUTU–FNL.

On May 14, also in the Isale commune, following fighting between the FDN and the PALIPEHUTU–FNL, members of the FDN detained and executed 8 youths (all between the ages of 12 and 15) and 4 men. According to a UN report, none of the victims could be identified.

Between May and September, ONUB documented an increase in summary executions, reportedly by FDN soldiers of suspected supporters of the PALIPEHUTU–FNL. Multiple credible sources reported that FDN soldiers and DN agents summarily executed individuals thought to be members or sympathizers of the PALIPEHUTU–FNL. These sources noted another increase in these executions beginning in November.

According to a UN report, on July 31, in the Bubanza commune of Bubanza Province, an FDN patrol killed a man in his home in an area believed to be a PALIPEHUTU–FNL infiltration route.

Although not as frequent as in past years, there were reports that the FDN killed civilians indiscriminately as a result of the conflict. For example on March 1, three civilians were killed during a firefight between the FDN and the PALIPEHUTU–FNL near Bujumbura. On June 7, in the Mpanda commune of Bubanza Province, two civilians were killed during fighting between the FDN and the PALIPEHUTU–FNL. On September 13, one civilian was killed by shrapnel during fighting between the FDN and the PALIPEHUTU–FNL in Bujumbura.

According to the UN Office of the High Commissioner for Human Rights (UNOHCHR) and NGOs, soldiers and rebels used rape as a weapon of war. For example on March 3, in the Mutimbuzi commune of Bujumbura Rural Province, a member of the FDN raped and beat a woman during a patrol. On March 8, in the Bubanza commune of Bubanza Province, a member of the FDN raped an eight-year-old girl. On June 6, in the Nyanza-Lac commune of Makamba Province, a member of the FDN detained a local woman at a military position and raped her.

The FDN pillaged houses throughout the year, particularly in Bujumbura Rural Province. The UN reported that on March 15, members of the FDN pillaged more than 200 houses in the Isale commune of Bujumbura Rural Province while searching the area for the PALIPEHUTU–FNL. On May 1, in the Kibuye commune of Bujumbura Rural Province, members of the FDN extorted money, food, and personal possessions from the local population.

Landmines placed by government and rebel forces in past years and unexploded ordnance continued to cause civilian deaths and injuries.

There were reports that security forces continued to use children to perform menial tasks without compensation; however, the government removed child soldiers from government security forces and demobilized approximately 3,015 children by year's end (see section 5). According to the UN Children's Fund (UNICEF), by year's end security forces were no longer using children as soldiers for combat, although other sources reported that children continued to serve in the security forces as spies and porters and to perform other menial tasks.

There were reports of civilians displaced by fighting (see section 2.d.).

The PALIPEHUTU–FNL killed, beat, kidnapped, stole from, and raped civilians. During the year League Iteka and the UN reported numerous incidents where the PALIPEHUTU–FNL killed civilians for supposedly cooperating with the FDN. For example on February 18, in the Kabezi commune of Bujumbura Rural Province, members of the PALIPEHUTU–FNL decapitated and cut off the arms and legs of a farmer they accused of passing information to the FDN.

On March 14, in the Nyarabira commune of Bujumbura Rural Province, members of the PALIPEHUTU–FNL killed three persons accused of collaborating with the FDN.

On June 18, in the Mutimbuzi commune of Bujumbura Rural Province, members of the PALIPEHUTU–FNL used machetes to kill two men accused of collaborating with the FDN.

The PALIPEHUTU–FNL and armed bandits often killed civilians who refused to comply with extortion. There were numerous reports that the PALIPEHUTU–FNL ambushed minibuses on national highways and robbed and killed the occupants. UN security officials reported numerous other ambushes during the year.

Throughout the year members of the PALIPEHUTU–FNL raped civilians.

League Iteka and the UN reported that the PALIPEHUTU–FNL looted homes throughout the year. For example on February 5, in the Muhuta commune of Bujumbura Rural Province, the PALIPEHUTU–FNL pillaged 50 houses, and one teenager was killed in the attack.

In July and August there were frequent reports that members of the PALIPEHUTU–FNL stole livestock and extorted money, clothing, and medicine from civilians in Bubanza and Kayanza provinces.

The PALIPEHUTU–FNL rebel group used or recruited children as soldiers during the year (see section 5).

No actions were taken against members of the security forces or CNDD–FDD responsible for killings, rapes, lootings, or other abuses committed in the context of conflict that were reported in 2004 or 2003. There were no reports that rebel forces punished members who were responsible for abuses.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press; however, the government restricted these freedoms in practice. The government arrested, harassed, and detained journalists. The government periodically forced some media to suspend operations. Unlike in the previous year, the government did not prevent journalists from going to rural areas where crimes occurred. Journalists continued to practice self-censorship, although the media sometimes expressed diverse political views. The University of Burundi, the country's only government-funded university, did not offer a journalism program, but one private university did.

The government restricted freedom of speech through arrests and intimidation. On November 19, government forces arrested 10 youths in Musaga, Bujumbura, for attending a meeting of PA-Amasekanya, a militant pro-Tutsi group. On October 14, the government banned the sale and the publicity for a book written by PA-Amasekanya leader Diomedé Rutamucero.

The government controlled much of the major media. The government owned *Le Renouveau*, the only daily newspaper, as well as the country's only television station and the only radio station with national coverage. The government exercised strong editorial control of these media.

There were six private weekly publications, including the private French-language *Arc-en-ciel* (Rainbow), and 11 private Internet and fax-based news sheets. The number of copies printed by independent publications was small, and readership was limited by low literacy levels. Newspaper circulation was generally limited to Bujumbura or urban centers to the near exclusion of rural areas. Ownership of private newspapers was concentrated, but there was a wide range of political opinion among the press.

Radio remained the most important medium of public information. The government-owned radio station broadcasted in Kirundi, French, and Kiswahili, and offered limited English programming. There were eight privately owned radio stations, including Radio Isanganiro, Bonesha FM, and African Public Radio (RPA), all of which broadcast news in French, Kirundi, and Kiswahili. Some stations received funding from international donors. Listeners could receive transmissions of foreign news organizations.

Unlike in the previous year, the government arrested and detained journalists. For example on June 14, the government arrested Etienne Ndikuriyo, a Radio Bonesha journalist and head of the news sheet *ZoomNet*, for reporting that Presi-

dent Domitien Ndayizeye was suffering from depression following his party's defeat in municipal elections. On June 23, the government released Ndikuriyo on bail of \$483 (500 thousand Burundian francs) and ordered him to report to a magistrate once a week.

During the year the government increased censorship and suspensions of operations by independent media, primarily as a result of media criticism of the government prior to various elections during the year. For example on February 11, the government suspended RPA for 48 hours. The CNC had accused it of "offending public morals" by reporting on the rape of an eight-year-old girl, threatening public security by "deforming" the words of Tutsi politician and former President Jean-Baptiste Bagaza, and slandering a number of citizens without giving them the right of response. RPA Director Alexis Sinduhije said these acts were intended to intimidate the station following the broadcast of critical debates and editorials about the country's electoral process.

Also on February 11, the CNC banned the private newssheet *NetPress* for one week, following accusations of libel regarding an article and an editorial it published in January and February. The article accused the head of the National Commission for Rehabilitation of War Victims (CNRS), Frederic Bamvuginyumvira, of diverting food aid intended for the hunger-stricken communities of the eastern province of Muyinga. The editorial accused then-National Assembly President Jean Minani of being lazy and unfit to run for president. According to the international press freedom watchdog Committee to Protect Journalists, the CNC did not allow *NetPress* an opportunity to respond to the CNC's allegations of libel.

The CNC ordered RPA to close indefinitely on July 14 (an order that RPA ignored), following accusations by the CNC that RPA's legislative election coverage favored the opposition CNDD-FDD and that the RPA had insulted the council. On July 19, RPA suspended operations for 48 hours in a compromise with government authorities; however, on July 22, acting on orders from President Ndayizeye's office, police forcibly closed RPA and detained for several hours 10 RPA journalists. Following mediation efforts by several media organizations, the CNC authorized the station to resume broadcasting on July 27.

During the year the country's media associations and press freedom advocates accused the CNC of acting under the orders of the government and of preferring to punish journalists rather than promote press freedom.

Media outlets complained about having to pay licensing fees, which some said were an unnecessarily heavy financial burden; it was not clear whether these fees weakened the independent media.

The law criminalizes offenses, including defamation, committed by the media and provides for fines and criminal penalties of six months' to five years' imprisonment for the dissemination of insults directed at the president, as well as writings that are defamatory, injurious, or offensive to public or private individuals.

During the year there were no reports of government restrictions on the Internet or academic freedom.

In October the PALIPEHUTU-FNL threatened four RPA journalists for reports that they disseminated about the rebel group.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The constitution provides for freedom of assembly; however, the government at times restricted this right. The law requires permits for public meetings and demonstrations, and applications were sometimes denied to groups, including those that criticized or opposed the government.

Unlike in the previous year, the Confederation of Burundian Labor Unions (COSYBU) reported that the government did not deny its member trade unions the right to assemble and peacefully demonstrate during the year. However, COSYBU reported that the government denied it a role in the official May 1 labor holiday celebrations.

Unlike in the previous year, there were no reports that the government denied requests by PA Amasekanya to demonstrate.

Throughout the year government security forces dispersed demonstrations by the government-sponsored militia group GP, who were protesting the manner in which they were being demobilized. For example on August 9, the security forces dispersed GP protesters after the GP set up a roadblock in Matonga, in Kayanza Province. On October 3, security forces members beat some GP protesters in Bubanza and Cibitoke provinces. On October 11, security forces shot into the air to break up a GP protest in Bujumbura city.

Freedom of Association.—The constitution provides for freedom of association; however, the government restricted this right in practice. Unlike in previous years, there were no reports that police arrested persons due to their membership in asso-

ciations. Registration was required for private organizations and political parties. Private organizations were required to present their articles of association to the Ministry of Interior for approval. Unlike in the previous year, there were no reports that the government failed to complete the approval process for private organizations whose purposes the government opposed.

By year's end the government had released all 67 members of PA-Amasekanaya whom security forces had arrested between February and May of 2004 due to their membership in the group.

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

The government required religious groups to register with the Ministry of Interior, which kept track of their leadership and activities. Registration was granted routinely. The government required religious groups to maintain a headquarters in the country.

Societal Abuses and Discrimination.—On June 16, members of the PALIPEHUTU–FNL killed 5 civilians taking part in a religious service in Bujumbura Rural Province, and at least 10 persons were wounded by grenades and gunfire.

There were no new developments in the October 2004 shooting of Catholic priest Gerard Nzeyimana by individuals who reportedly belonged to the PALIPEHUTU–FNL.

There were no new developments in the investigation of the 2003 killing of Papal Nuncio Michael Courtney.

The Jewish population was very small, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Immigration, and Repatriation.—The constitution provides for these rights; however, the government restricted them in practice. The government continued to impose a curfew in parts of the country. During fighting between the FDN and the PALIPEHUTU–FNL, local populations were routinely displaced and their movements were restricted by checkpoints, violence, and the threat of violence. Unlike in previous years, security forces did not restrict humanitarian relief agencies' access to local populations. However, the government denied human rights observers access to some areas, such as some military camps (see section 4).

The law does not provide for forced exile, and the government did not use it; however, many persons remained in self-imposed exile in Belgium, Kenya, Tanzania, the Democratic Republic of the Congo (DRC), and elsewhere.

Following the February 28 constitutional referendum, there were several reports that Hutus threatened voters in Kirundo Province, causing hundreds to flee the country (see section 3).

Between January 1 and November 19, the Office of the UN High Commissioner for Refugees (UNHCR) facilitated the voluntary repatriation of approximately 65 thousand Burundian refugees who had previously fled to neighboring countries; in addition there were 1,444 refugees who spontaneously repatriated to the country. The repatriates, most of whom came from Tanzania and returned to the eastern provinces, often returned to find their homes destroyed, their land occupied by others, and/or their livestock stolen. Poor living conditions and a lack of food and shelter were problems for returnees during the year, although returnees did receive a six-month food ration and other forms of assistance from UNHCR during the repatriation process. During the year the UNHCR and the CNRS assisted in the resettlement and reintegration of refugees and internally displaced persons (IDPs). According to the UNHCR, as of September, an estimated 450 thousand Burundian refugees remained outside the country, mostly in Tanzania. According to a special report to the UN Security Council in September, the UN Secretary General said that the return of large numbers of refugees was likely to continue and that the government needed to continue to work towards the fair and equitable redistribution of land and a just resolution of land ownership issues.

Internally Displaced Persons (IDPs).—Civilians were regularly displaced as a result of fighting in Bubanza, Muramvya, and Bujumbura Rural provinces between the FDN and the PALIPEHUTU–FNL. For example between June 7 and 14, an estimated 23 thousand persons fled Bubanza Province because of fighting between the FDN and the PALIPEHUTU–FNL. According to the UN Office for the Coordination of Humanitarian Affairs (UNOCHA), clashes between the PALIPEHUTU–FNL and security forces caused temporary population displacements lasting from one day to three weeks.

Unlike in the previous year, timely relief was not denied to IDPs or other populations in need due to security conditions or security forces restrictions.

According to UNOCHA, as of September there were 117 thousand long-term IDPs living in 160 sites nationwide, the majority in Kayanza, Ngozi, Kirundo, Muyinga and Gitega provinces. The majority were Tutsis who were displaced by violence in 1993 and who never returned home. Soldiers and police provided a measure of protection to camp inhabitants. There were reports that IDP camp inhabitants sometimes were required to perform labor for soldiers without compensation.

On July 25, hundreds of long-term IDPs, representing more than 600 families, camped out in front of a government building in Bujumbura to demand land in a Bujumbura neighborhood that they claimed the government confiscated from them. Although the government said these IDPs had no documents to prove their ownership, the IDPs claimed that former President Pierre Buyoya granted them the land in a national radio address in 1997, after visiting them in Bujumbura's Kinama neighborhood. During the year the government parceled the land out to civil servants, and in July the government used bulldozers to destroy the IDPs' houses. In August the IDPs agreed to end their months-long protest after the government agreed to give them land in another part of the Kinama neighborhood. However, as of year's end the IDPs were still demanding a letter from the government that would document their ownership of the land.

Protection of Refugees.—The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. The country is also a party to the Organization of African Unity Convention Governing Specific Aspects of Refugee Problems in Africa. The government has established a system for providing protection to refugees and granted refugee status and asylum. However, in thousands of cases during the year, the government did not provide protection against *refoulement*, the return to a country where refugees feared persecution. In early June the government declared that approximately seven thousand Rwandan asylum seekers, who had been arriving since February, were "illegal immigrants", following a joint decision by the governments of Burundi and Rwanda. Initially the government had accepted the Rwandans as refugees, but the Rwandan government accused Burundi of harboring persons suspected of participating in the 1994 Rwandan genocide and reportedly applied significant pressure on the government; one Rwandan minister said the asylum seekers were fugitives fleeing justice. From June 12 to June 14, the two governments conducted a forced repatriation of the asylum seekers from temporary sites in Ngozi, Muyinga, Kirundo, and Cankuzo provinces without an assessment of their claims. By September the government had forcibly repatriated at least 6,500 Rwandan asylum seekers from camps in northern Burundi, in cooperation with Rwandan authorities. In December the UNHCR reported there were approximately six thousand Rwandan asylum seekers in Burundi's northern provinces of Kirundo and Ngozi, many of whom had returned to Burundi after being refouled in June.

The government did not always cooperate with the UNHCR and other humanitarian organizations assisting refugees. In late May President Ndayizeye publicly threatened to expel the UNHCR and the ICRC and accused them of aiding Rwandan asylum seekers whom the government had denied refugee status; the president cited acute land and food shortages as part of his justification for not cooperating further with the organizations. The UNHCR, UNOCHA, ONUB, humanitarian organizations, and the diplomatic community undertook extensive efforts to prevent forced repatriations of refugees in June; however, the government largely ignored these appeals. In June the security forces denied the UNHCR access to the Songore transit site in the northern province of Ngozi during the forced repatriation of thousands of Rwandan refugees. However, in August the governments of Rwanda and Burundi signed an agreement with the UNHCR that laid the ground rules for the voluntary repatriation of thousands of Burundian refugees from Rwanda. In December the Norwegian Refugee Council began constructing a transit site in the Ngozi Province town of Musasa for the six thousand Rwandan asylum seekers who resided in Burundi at year's end, many of whom had fled Rwanda for a second time since having been forcibly repatriated to Rwanda in June. The government allowed the UNHCR to provide relief aid to these Rwandans, whom the UNHCR classified as asylum seekers.

As of year's end there were approximately 48,824 refugees residing in the country, in addition to at least 6 thousand resident asylum seekers. Of these, the UNHCR assisted more than 16,980. Many refugees were locally integrated into urban centers and did not stay in camps, although roughly 7,800 Congolese refugees were hosted in 2 camps.

During the year the government provided protection to certain individuals who may not qualify as refugees under the 1951 UN convention and the 1967 protocol.

The Burundian and Rwandan authorities employed acts of intimidation, harassment, and violence to hasten the return of Rwandan asylum seekers, particularly during the forced refoulement of thousands of refugees in June. Unlike in the previous year, there were no reports that refugees were killed. According to the Rwandan interior minister, the PALIPEHUTU–FNL and the Rwandan rebel group Democratic Front for the Liberation of Rwanda recruited Rwandan asylum seekers in Burundi and took them to training centers, including centers in the Kabira Forest. On October 20, local authorities said that they could not protect the asylum seekers from Rwandan security forces near the Ngozi Province town of Gatsinda and urged them to move from Gatsinda to Mivo, another town in the same province. According to the UNHCR, approximately 15 members of Rwanda’s security forces had been in the area of Gatsinda on the night of October 18, prompting the local authorities to make the declaration.

ONUB and the UN Organization Mission in the DRC (MONUC) continued their follow-up to the joint investigation into the Gatumba massacre of 152 Congolese Tutsi refugees in August 2004. The government had not published the results of its own investigation by year’s end.

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

The law provides the right for citizens to change their government peacefully, and citizens exercised this right in practice.

On February 28, following two postponements, citizens adopted a new constitution by referendum, with more than 90 percent of the population voting in favor; 92 percent of the almost 3 million voters who registered participated in the referendum. According to the country’s Independent National Electoral Commission (CENI), the referendum took place peacefully, despite the presence of what CENI’s chairman called “minor irregularities.” Following the referendum there were several reports that certain groups of Hutus threatened to commit acts of reprisal against Kirundo Province voters, including members of the Twa minority (Pygmies), for supposedly voting “no” in the constitutional referendum. According to press reports, several hundred citizens, including 88 Twa, fled Kirundo to nearby Rwanda as a result of this intimidation.

Elections and Political Participation.—On August 19, through an indirect ballot, citizens chose their first democratically elected president in more than 12 years, marking the end of the 4-year transition under the Arusha Peace and Reconciliation Agreement. The legislature elected the sole candidate, Pierre Nkurunziza of the CNDD–FDD, and he was sworn in as president on August 26. During the election, the PALIPEHUTU–FNL shelled Bujumbura with mortars.

On June 3, the country held communal elections in which voters chose 3,225 communal councilors (25 seats for each of the country’s 129 communes). Formal local election observers, as well as members of the international diplomatic corps who observed informally, considered the communal elections generally free and fair. However, shootings attributed to the PALIPEHUTU–FNL and intimidation affected the polls in parts of Bujumbura Rural, Bubanza, and Cibitoke provinces. With improved security, by-elections were held in those areas on June 6. The CNDD–FDD won 55 percent of the communal seats, and voter turnout was above 80 percent. During the campaign period in May, smaller parties also accused the CNDD–FDD and other large parties who held key government and territorial administrative positions of violating the electoral code of conduct; they said the larger parties were using government vehicles and other government resources during their campaigns.

On July 4, the country held elections for the National Assembly, the lower house of the legislature. Electoral observers from the European Union judged these elections to be generally free and fair. In order to respect constitutional requirements regarding ethnic and gender quotas, an additional 18 members were co-opted after the elections. The CNDD–FDD won 64 National Assembly seats out of 118. FRODEBU won 30 seats, and UPRONA won 15 seats. The campaign prior to the National Assembly elections was tense and significantly marred by violence and intimidation (see section 1.a.). FRODEBU Secretary General Leonce Ngendakumana said unidentified assailants were attacking FRODEBU supporters across the country. Tensions between the CNDD–FDD and FRODEBU remained high during the campaign, and FRODEBU accused the CNDD–FDD of using “intimidation and terrorism” to win votes.

On July 29, the country held elections for the Senate, the upper house of the legislature, through an indirect process; international and local election observers deemed the elections free and fair. In each province, electoral colleges of communal councilors chose senators. The CNDD–FDD won 32 out of 49 seats.

The constitution provides that 60 percent of seats in the National Assembly be filled by Hutus, the majority ethnic group in the country, and 40 percent be filled by Tutsis, who constitute about 15 percent of the citizenry. In addition military posts are divided equally between Hutus and Tutsis.

During the year there were 35 recognized political parties. The CNDD–FDD, FRODEBU, and UPRONA were the largest political parties. The CNDD–FDD controlled most government positions.

The constitution reserves 30 percent of National Assembly seats and 30 percent of Senate seats for women. There were 37 women in the 118-seat National Assembly, including Nahayo Immaculee, who was elected speaker. There were 17 women in the 49-seat Senate. Women held 7 of 20 ministerial seats. The constitution requires that 30 percent of seats in the cabinet, as well as in other government bodies, be filled by women.

The law stipulates quotas to maintain ethnic balance in the government. Three members of the Twa ethnic group, which makes up less than 1 percent of the population, were appointed to the government body.

The National Assembly continued to refuse the demands of human rights groups that have called for the repeal of a provisional immunity law that the assembly approved in 2003. The law grants provisional immunity to political leaders who return from exile to take part in government institutions. The law covers “crimes with a political aim” committed from 1962 to the date of the law’s promulgation.

Government Corruption and Transparency.—The government remained subject to a culture of impunity, and widespread corruption remained a problem. Corruption was prevalent in the public and private sectors and affected numerous public services, including procurement, the granting of land use concessions, public health, and the assignment of school grades. A portion of the government’s revenues and expenditures remained off-budget, allowing the government to use monies collected from taxes on such things as beer and gas to fund military expenditures. According to Transparency International’s 2005 Corruption Perceptions Index, citizens perceived corruption to be a “severe” problem.

The second vice president, the Ministry of Good Governance, and the National Auditing Agency were charged with fighting corruption. The National Auditing Agency has questioned a former president, vice president, minister of finance, and the head of the central bank over alleged corruption concerning the payment of a roughly 4 million dollar (4.4 billion Burundian francs) government debt to the heirs of Belgian businessman Mojzesz Lubelski. There was an ongoing investigation at year’s end.

The law does not provide for access to government information, and in practice information was difficult to obtain. The law does not allow the media to invoke the right to broadcast or publish information in certain cases relating to national defense, state security, and secret judicial inquiries. Human rights observers criticized the law for its application of poorly defined restrictions on the right to access and disseminate information; they said that vague prohibitions regarding official secrets could easily be used as a broad shield to hide corruption or other human rights abuses.

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

A number of local and international NGOs, including human rights groups, generally operated without government restrictions; unlike in previous years, the government did not restrict access for journalists, humanitarian workers, or human rights observers to areas of the country affected by fighting. However, human rights observers were not allowed to visit some government facilities, such as some military bases and prisons run by the government’s intelligence service. Government officials cooperated with these groups by providing limited access to information and other resources.

Domestic human rights groups received varying degrees of cooperation from government ministries; at times the ministries provided them with information and facilitated visits to areas of interest. While well-established groups with international linkages and a presence in Bujumbura had a measure of protection from government harassment, indigenous NGOs in the countryside were more susceptible to government pressure. In addition security forces—even if willing—were unlikely to be able to protect NGO members from private reprisals. Although the government did not directly take action based on local NGO recommendations, local NGOs continued to engage in advocacy. The most prominent local human rights group, League Iteka, continued to operate and publish a newsletter. Unlike in the previous year, there were no reports of harassment of NGOs by security forces.

During the year authorities released local NGO employee Innocent Nzeyimana, whom CNDD–FDD combatants arrested in October 2004 and accused of siding with the PALIPEHUTU–FNL.

In October League Iteka released a report that urged the government to prosecute quickly security forces involved in extrajudicial executions, torture, and inhumane treatment. In September alone the military killed 11 civilians, according to the report. Iteka also criticized the government’s denial of requests by human rights organizations and family members to gain access to persons being detained, some of whom were believed to have been tortured. A military spokesperson dismissed Iteka’s claims as “groundless,” saying the military had not killed any civilians.

The government did not always cooperate with the UN and international NGOs. During the year the president threatened to expel the UNHCR and the ICRC for aiding Rwandan refugees that the government had determined to be illegal immigrants (see section 2.d.). In addition according to a report by HRW that cited interviews with ONUB, the municipal police commissioner and various other authorities repeatedly denied ONUB human rights officers access to detainees (see section 1.c).

On November 4, HRW published a report entitled *Burundi: Missteps at a Crucial Moment*. The report called on the government to investigate and prosecute all cases of serious human rights violations committed by government officials, including security forces; to take all necessary measures—such as through training programs—to ensure that government officials and security forces respect citizens’ human rights; and to allow ONUB human rights officers and representatives of human rights NGOs access to all prisons and detention facilities. Although the president called for an end to torture on November 3, there were no known actions taken by the government in response to the report.

The UN Office of the High Commissioner on Human Rights maintained a four-person observer team in the country. During the year UNOB had 40 international human rights observers in the country.

During the year the UN released reports that highlighted the government’s failure to curb human rights violations. For example in its quarterly report covering April through June, ONUB described the frequency of human rights violations as increasing, especially in the provinces of Bujumbura Rural and Makamba. In a press conference in August, following the release of the report, the head of the ONUB human rights division said that no soldier had been prosecuted for violations detailed in the report because of a lack of cooperation by the military. A military spokesman denied the report’s allegations and said ONUB’s report was biased.

The UN secretary general published two special reports on ONUB and the human rights, humanitarian, and security situation in the country—one in May and one in September. The September report commended the government for adopting a post-transitional constitution, conducting several elections, concluding the transitional process, and making progress toward disarmament, demobilization, and reintegration of former combatants. The reports expressed concern over the country’s culture of impunity and the continued military confrontations between the FDN and the PALIPEHUTU–FNL, as well the conflict’s adverse impact on civilians. The report called for more progress on judicial reform and the transparent and accountable management of state revenues. The report deplored the government’s failure to investigate serious violations committed by FDN members, who were frequently transferred to different locations and allowed to continue working following the commission of human rights violations. The report also detailed the poor conditions in the country’s prisons and detention centers, and the government’s failure to respect international law concerning the treatment of refugees and asylum seekers. There were no reports of action taken by the government in response to the UN reports.

On March 11, the UN released a report on the establishment of an International Commission of Judicial Inquiry and a National Truth and Reconciliation Commission. The UN, the government, and others were negotiating how to organize these bodies, which would bring to justice persons responsible for genocide, crimes against humanity, and war crimes committed in the country since it gained its independence in 1962. By year’s end, neither the truth commission nor the judicial body had been established.

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

The constitution provides equal status and protection for all citizens, without distinction based on sex, origin, ethnicity, or opinion; however, the government failed to effectively implement these provisions, and discrimination and societal abuses persisted.

Women.—Domestic violence against women was common, although no credible statistics were available. Wives had the right to charge their husbands with physical abuse but rarely did so. The law does not specifically prohibit domestic violence;

however, persons accused of domestic violence could be tried under assault provisions of the law. By year's end no known court cases had dealt with domestic abuse. Police normally did not intervene in domestic disputes, and the government rarely investigated cases involving violence against women. According to League Iteka, husbands beat their wives, forced them out of their homes, denied them basic food necessities, and denied freedom of movement.

The law prohibits rape, which is punishable by up to 20 years' imprisonment, but does not specifically prohibit spousal rape. The FDN and the PALIPEHUTU-FNL raped women during the year (see sections 1.c. and 1.g.). According to a 2003 Amnesty International report, domestic rape (outside the context of the conflict) was common. In 2004 Doctors without Borders (MSF) received an average of 125 rape victims each month at its center for rape victims in Bujumbura; however, MSF said the number of rapes was likely much higher. According to a UN agency, many rapes of young girls were committed during the year with the belief that they would prevent or cure sexually transmitted diseases, including HIV/AIDS. Information on rape has only recently begun to be recorded. Many women remained reluctant to report rape, including for cultural reasons and fear of reprisals. Few cases of rape were reported to the authorities, and according to a field officer at a MSF center in Bujumbura, only 10 to 15 percent of rape victims actually initiated legal proceedings. Many rape victims did not receive medical care due to the intimidation caused by cultural attitudes. Men often abandoned their wives following acts of rape, and women and girls were ostracized. In some instances police and magistrates reportedly ridiculed and humiliated women who alleged that they were raped; according to a UN agency, there were reports that some police required that victims provide food and pay the costs for incarceration of those they accuse of rape. Many of those who sought judicial redress faced the weaknesses of the judicial system, including many judges who did not regard rape as a serious crime, and a lack of medical facilities for gathering important medical evidence. In the limited number of cases that were investigated, successful prosecutions of rapists were rare.

Civil society and religious communities attacked the stigma of rape to help victims reintegrate into families that rejected them. League Iteka, APRODH, and ONUB continued to encourage women to press charges and seek medical care, and international NGOs provided free medical care in certain areas. The government also raised awareness of the problem's extent through seminars and local initiatives on the kinds of medical care available.

The law prohibits prostitution; however, it was a problem. There were reports that soldiers and rebels sexually exploited women and young girls residing near military installations and rebel camps. According to a 2003 report by the Women's Commission for Refugee Women and Children, the ongoing conflict forced many women into prostitution to feed their children. Increased prostitution continued to contribute to the growing incidence of HIV/AIDS.

The law did not prohibit sexual harassment, but it could be prosecuted under public morality laws. There were no known prosecutions during the year.

Women faced legal and societal discrimination. Discriminatory inheritance laws, marital property laws, and credit practices continued. By law women must receive the same pay as men for the same work, but in practice they did not, and some enterprises cut salaries of women when they went on maternity leave. Women were far less likely to hold mid-level or high-level positions. In rural areas women performed most of the farm work, married and had children at early ages, and had fewer opportunities for education than men.

Several local groups worked in support of women's rights, including the Collective of Women's Organizations and NGOs of Burundi and Women United for Development.

Children.—The law provides for children's health and welfare, but the government could not adequately satisfy the needs of children, particularly the large population of children orphaned by violence since 1993 and by HIV/AIDS.

According to the Ministry of Education, the maximum age up to which public schooling was provided was 22. Schooling was compulsory up to age 12; however, in practice this was not enforced. The government traditionally provided primary school at nominal cost, but it was increasingly unaffordable due to the declining economy. Beginning in September primary school fees were abolished; however, students still had to pay for uniforms, textbooks, and other school materials. According to UNICEF, the net primary school enrollment/attendance rate was 48 percent for girls and 59 percent for boys. Sixth grade is the highest level of education attained by most children, with approximately 9 percent of girls and 12 percent of boys of secondary school age attending school, according to UNICEF.

The NGO Maison Shalom, which ran several centers for orphaned and other vulnerable children in different parts of the country, estimated that 60 percent of the

country's school-age children were illiterate. Female illiteracy remained a particular problem. Approximately 40 percent of women were literate compared with 56 percent of men.

At his August 26 inauguration, incoming President Nkurunziza abolished all school fees; while this action made schooling available to hundreds of thousands of new students, it also led to an educational emergency involving overcrowded classrooms and teachers teaching multiple shifts. More than 25 percent of primary schools were destroyed in the war, and many teachers were killed. Teacher training was interrupted, and it was difficult to find qualified teachers to work in some parts of the country. A study on the obstacles to girls' education, conducted in 2003 by the Forum of African Women Educationalists, found that unwanted pregnancies were, after poverty, the second highest cause of girls leaving school prematurely. It found that 28.4 percent of girls who dropped out of school did so because of pregnancies, many of which resulted from sexual violence.

In April in cooperation with the government, UN agencies launched a project intended to provide 300 thousand children in the country with a new vaccine to protect them against numerous diseases, including diphtheria, tetanus, hepatitis B, measles, and tuberculosis; the project was to be piloted in Makamba, Kirundo, and Muyinga provinces and later expanded to cover the entire country.

In October in cooperation with the government, UNICEF launched a campaign to support and protect tens of thousands of children living with or affected by HIV/AIDS. According to a survey cited by UNICEF that was carried out in 15 of the country's 17 provinces at the beginning of the year, 30 thousand children were living with HIV/AIDS.

During the year numerous cases of sexual violence among the population continued to be reported, with most victims being minors, according to a special report delivered to the UN Security Council by UN Secretary General Kofi Annan in September.

Child abuse occurred but was not reported to be a widespread problem.

There was a pattern of child marriage in the country during the year. The percentage of women between the ages of 20 and 24 who were married or in a union before 18 years of age was 17 percent, according to UNICEF statistics.

Trafficking of children was a problem.

Under the law the country's minimum age for military recruitment is 16, although the government stated that no one under 18 was recruited. According to a report by Maison Shalom, as of February approximately seven thousand children were serving as child soldiers in the security forces and various rebel groups. A joint government-UNICEF project demobilized 3,015 child soldiers from the government security forces as well as from former rebel groups by year's end. According to UNICEF, by year's end security forces were no longer using children as soldiers for combat, although other sources reported that children continued to serve in the security forces as spies and porters and to perform other menial tasks. By year's end all members of the former rebel groups had either been demobilized or integrated into the government security forces.

The PALIPEHUTU-FNL continued to use and recruit child soldiers. During the last 2 weeks in May, the FDN arrested 100 child soldiers at various locations throughout the country who had been recruited by the PALIPEHUTU-FNL. According to a military spokesperson, the FDN arrested some children as they entered the country from the eastern region of the DRC, where they were undergoing military training. The FDN arrested other children in Bujumbura and the provinces of Bujumbura Rural, Bubanza, Kayanza, Muramvya, and Muyinga. The spokesperson said the majority were between 10 and 15 years old and that the PALIPEHUTU-FNL had recruited all of them after May, after the rebel group had signed a cease-fire agreement with the government. Reportedly, 22 of those arrested were turned over to the national demobilization campaign and were demobilized at year's end. It was unclear what happened to the other 78 children.

Child labor was a problem (see section 6.d).

According to a survey carried out in the beginning of the year and the director of Maison Shalom, at least 230 thousand children were HIV/AIDS orphans (had lost one or both parents to HIV/AIDS). The ongoing conflict and increasing prevalence of HIV/AIDS has increased the number of orphans, which has resulted in an increase in the number of street children. The total number of orphans in the country, including children who were orphaned by causes other than HIV/AIDS, was more than 970 thousand, according to the survey cited by UNICEF. According to the Ministry for National Solidarity, Human Rights, and Gender, there were approximately five thousand street children in the country by year's end. During the year there were reports that police periodically rounded up hundreds of street children and took them to a shelter in the Bujumbura neighbor of Kamenge to be assisted.

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons, and there were reports of trafficking. Traffickers could be prosecuted under existing laws against assault, kidnapping, rape, prostitution, slavery, and fraud. During the year the government aggressively investigated and prosecuted the alleged trafficking of a woman from the DRC to Lebanon that occurred in 2003; however, the courts determined that it was a case of smuggling for domestic work. There were no other reports of prosecutions or convictions of traffickers during the year.

The Ministry for National Solidarity, Human Rights, and Gender was responsible for combating trafficking.

During the year Burundi was a source and transit country for children trafficked for the purpose of forced soldiering. There also were reports of coerced sexual exploitation of women by both government soldiers and rebel combatants. The trafficking of child soldiers by the PALIPEHUTU–FNL within the country was a problem (see section 5, Children).

The government supported public awareness campaigns and programs to prevent trafficking and continued to demobilize and provide assistance to former child soldiers from the FDN, GP, and six former rebel groups (see section 5, Children).

Persons with Disabilities.—The constitution prohibits discrimination against those with physical or mental disabilities and there were no reports that the government failed to enforce this provision regarding employment, education, or access to healthcare. The government has not enacted legislation or otherwise mandated access to buildings or government services such as education for persons with disabilities, and this was due in part to a lack of government resources to ensure access to buildings and services. Unlike in the previous year, there were no reports that discrimination against persons with disabilities was a problem, or that there were few job opportunities for persons with physical disabilities.

National/Racial/Ethnic Minorities.—The Tutsis, particularly southern Tutsis from Bururi Province, historically have held power, dominated the economy, and controlled the security forces.

Discrimination against Hutus, who constituted an estimated 85 percent of the population, continued to affect every facet of society, most strikingly in higher education. Discrimination against Hutus that was prevalent in certain branches of the government decreased following the February 28 adoption of a new constitution requiring ethnic quotas on representation within the government and in the military, and following July and August elections during the year in which Hutus significantly increased their presence and power in the government.

Indigenous People.—The Twa (Pygmies), who were believed to be the country's earliest inhabitants, comprised approximately 1 percent of the population and generally remained economically, socially, and politically marginalized. Following the February 28 constitutional referendum, there were several reports that Hutus threatened members of the Twa causing scores of them to flee the country (see section 3). Most Twa lived in isolation, without formal education and without access to government services, including health care and the judicial system. A 2004 Refugees International report noted that the popular perception of the Twa as barbaric, savage, and subhuman had seemingly legitimized their exclusion from mainstream society.

Unlike in the previous year, there were no reports that authorities burned Twa homes during the year.

Other Societal Abuses and Discrimination.—The constitution specifically outlaws any discrimination against those with HIV/AIDS or other incurable illnesses, and there were no reports of government-sponsored discrimination against such individuals.

The constitution bans marriage between individuals of the same sex. According to a local law professor, this same-sex marriage ban, given cultural attitudes, constitutes a legal prohibition of homosexuality. Societal discrimination against homosexuals was widespread, although they maintained a very low profile.

Section 6. Worker Rights

a. The Right of Association.—The Labor Code protects the right of workers to form and join unions, and although most workers exercised this right in practice, the army, gendarmerie, and foreigners working in the public sector were prohibited from union participation. The Labor Code does not address state employees and magistrates. According to COSYBU, private sector employers systematically worked to prevent the creation of trade unions, and the government failed to protect private sector workers' rights in practice.

According to COSYBU, less than 10 percent of the formal private sector workforce was unionized, and roughly 50 percent of the public sector was unionized. Most citizens worked in the unregulated informal economy, in which workers had little or no legal protection of their labor rights.

Unlike in previous years, the government did not deny trade unions the right to assemble and peacefully demonstrate during the year.

On June 3, security agents prevented General Secretary of COSYBU Pierre Claver Hajayandi from boarding a plane at the Bujumbura airport and confiscated one of his passports. According to the International Confederation of Free Trade Unions (ICFTU), Hajayandi was forced to go into hiding to avoid being arbitrarily detained by authorities. Hajayandi intended to attend an annual labor rights conference held by the International Labor Organization when he was stopped at the airport. Because Hajayandi had two passports, he was able to reach Geneva. After President Ndayizeye's term ended, Hajayandi returned to the country and the issue was resolved.

The Labor Code prohibits antiunion discrimination, and aside from some exceptions, the government generally respected this right in practice in the public sector. However, according to the ICFTU, the government often failed to protect workers in the private sector from discrimination by employers. In cases where employers dismiss employees because of their union affiliation, the Ministry of Labor can order an employee reinstated. If the employer fails to comply, the ministry refers the case to the labor court, which makes a determination of the severance pay and indemnification that the employer must pay.

During the year, after the government received advance notice of an impending strike by workers at the National Statistics Institute, the government fired one union leader and suspended six others. All seven were reinstated by year's end.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The Labor Code recognizes the right to collective bargaining; however, wages are excluded from the scope of collective bargaining in the public sector. In practice collective bargaining was freely practiced. There are no export zones.

Since most workers were civil servants, government entities were involved in almost every phase of labor negotiations. Both COSYBU and the Confederation of Free Unions in Burundi represented labor interests in collective bargaining negotiations, in cooperation with individual labor unions.

The Labor Code provides workers with a conditional right to strike, and workers exercised this right in practice. All other peaceful means of resolution must be exhausted prior to the strike action; negotiations must continue during the action, mediated by a mutually agreed upon party or by the government; and six days' notice must be given. The Ministry of Labor must determine if strike conditions have been met. The Labor Code prohibits retribution against workers participating in a legal strike.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that it occurred (see section 5). During the year there were reports that security forces continued to use persons, including children, to perform menial tasks without compensation. A 2003 UNICEF survey found that 640 thousand children in the country had been forced to work.

The PALIPEHUTU–FNL forced rural populations to perform uncompensated labor, such as the transport of supplies and weapons, and recruited children for labor (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The Labor Code states that children under the age of 18 cannot be employed by “an enterprise,” except for the types of labor the Ministry of Labor determines to be acceptable, which include light work or apprenticeships that do not damage their health, interfere with normal development, or prejudice their schooling. However, child labor remained a problem. Children under the age of 16 in rural areas regularly performed heavy manual labor in the daytime during the school year. According to the ICFTU, the vast majority of children in the country worked during the year.

Children were legally prohibited from working at night, although many did so in the informal sector. Most of the population lived by subsistence agriculture, and children were obliged by custom and economic necessity to participate in subsistence agriculture, family-based enterprises, and the informal sector. Child labor also existed in the mining and brick-making industries. The use of child soldiers and child prostitution continued to be problems (see section 5).

The Ministry of Labor enforced labor laws only when a complaint was filed.

During the year international organizations, a few NGOs, and labor unions engaged in efforts to combat child labor; efforts included the campaign to demobilize child soldiers and changing the law during the year to raise the minimum age for workers from 16 to 18.

e. Acceptable Conditions of Work.—The legal minimum wage for unskilled workers continued to be \$0.15 (160 Burundian francs) per day, which did not provide a decent standard of living for a worker and family. Most families relied on second incomes and subsistence agriculture to supplement their earnings.

The Labor Code stipulates an 8-hour workday and a 45-hour workweek, except where workers were involved in activities related to national security; however, this stipulation was not always enforced in practice. Supplements must be paid for overtime. Alternative work schedules were negotiable.

The Labor Code establishes health and safety standards that require safe workplaces. Enforcement responsibility rests with the Minister of Labor, who was responsible for acting upon complaints; however, there were no reports of complaints filed with the ministry during the year. Workers did not have the right to remove themselves from situations that endanger health and safety without jeopardy to their employment.

CAMEROON

Cameroon is a republic dominated by a strong presidency and has a population of approximately 16.3 million. Despite the country's multiparty system of government, the Cameroon People's Democratic Movement (CPDM) has remained in power since the early years of independence. In October 2004 CPDM leader Paul Biya won re-election as president. The election was flawed by irregularities, particularly in the voter registration process, but observers believed the election results represented the will of the voters. The president retains the power to control legislation or to rule by decree. He has used his legislative control to change the constitution and extend the term lengths of the presidency. Although civilian authorities generally maintained effective control of the security forces, there were frequent instances in which elements of the security forces acted independently of government authority.

The government's human rights record remained poor, and the government continued to commit numerous serious human rights abuses. The following human rights violations were reported:

- severe limits on citizens' ability to change their government
- numerous unlawful killings by security forces
- regular torture, beatings, and other abuses of persons, particularly detainees and prisoners, by security forces
- impunity among the security forces
- harsh and life-threatening prison conditions
- arbitrary arrest and detention of Anglophone citizens advocating secession, local human rights monitors/activists, and other citizens
- prolonged—and sometimes incommunicado—pretrial detention
- infringement on citizens' privacy rights
- restrictions on freedoms of speech, press, assembly, and association
- abuse and harassment of journalists
- limits on freedom of movement
- widespread corruption
- violence, including rape, and discrimination against women
- trafficking in persons, primarily children
- societal discrimination against indigenous Pygmies and ethnic minorities
- discrimination against homosexuals
- restrictions on worker rights and the activities of independent labor organizations
- child labor, slavery, and forced labor, including forced child labor

The government took steps to advance human rights during the year. There was a more systematic effort to investigate, suspend and prosecute security force members accused of killings and other abuses. Control and administration of the prisons was moved to the Ministry of Justice, allowing for better tracking of prisoners from

arrest to final trial sentencing. The government also opened a new Department of Human Rights in the Ministry of Justice to investigate any abuses committed in areas under the ministry's responsibility.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Unlike in the previous year, there were no reports that government agents committed politically motivated killings. However, throughout the year security forces continued to commit unlawful killings, including killings resulting from torture and the use of excessive force.

In March the National Assembly lifted the parliamentary immunity of member of parliament (MP) Doh Gah Gwanyin III, exposing him to judicial investigation for the August 2004 killing of John Kohntem, which may have been politically motivated. On June 20 and 21, in Ndop superior court in Ngoketunjia' Division, North West Province, the prosecutor interrogated the MP and 11 other suspects arrested in September 2004. The preliminary investigation was still underway at year's end. The National Commission on Human Rights and Freedoms (NCHRF) was also still investigating the case.

Prisoners died in custody during the year due to torture and abuse by security forces, harsh prison conditions, and inadequate medical treatment (see section 1.c.). For example on February 8, Emmanuel Moutombi, a banker, died after being tortured in the Bonanjo and Akwa-Nord gendarmerie offices of Douala. After police arrested Moutombi on embezzlement charges on January 17, gendarmes at the Bonanjo station tortured him. On January 20, after Moutombi continued to refuse to plead guilty, the Bonanjo gendarmes transferred him to Akwa-Nord, where gendarmes tortured him again. The following week, an investigating magistrate ordered Moutombi to be transferred to a hospital, where he died. On February 16, the minister of defense suspended the six officers allegedly involved in torturing Moutombi and ordered their arrest and transfer to Yaounde. The officers were: Barthelemy Munguen, Leon Tchapi, Jean-Claude Menanga Ahanda, Ndogmo, Pierre Likeng Ndjemba, and Desire Nti Essimi. On September 27, a military tribunal reclassified the charges against four of the officers. The hearing was postponed, and as of year's end, no new date had been set.

There were no developments in the January 2004 beating to death of Emmanuel Song Bahanag by New Bell prison wardens; the April 2004 torturing to death of Laurent Gougang in the Douala Judiciary Police headquarters; or the 2003 death of Emmanuel Banye in police custody.

During the year there were reports that police used excessive force to disperse demonstrators, resulting in the deaths of protesters (see section 2.b.).

During the year police used excessive force, including deadly excessive force, on a number of occasions. There were numerous incidents where police beat and shot suspects, many of whom were fleeing the police. The government took more steps to investigate and prosecute officers who used excessive force than in previous years (see section 1.d.).

On January 31, a Yaounde police officer with the last name of Baba shot and killed Denis Serge Etoundi while responding to a call about a domestic dispute at Etoundi's residence; Etoundi reportedly resisted arrest and asked to see an arrest warrant. At year's end Baba was in detention and a judicial investigation was ongoing.

On March 25, Police Commissioner Japhet Bello Miagougoudom shot and killed Jean-Pierre Mpohede during a night search of his residence in the South Province town of Kribi. The reasons for the shooting remained unclear. On March 30, the president signed an order relieving Bello of his duties, and on April 1, police arrested Bello and transferred him to Ebolowa, South Province, where the judicial investigation continued at year's end.

On April 7, Police Commissioner Lawrence Tang Enow Oben of the South West Province town of Limbe shot and killed taxi driver Elvis Sigala Tasama during a police operation. On April 11, the general delegate for national security (DGSN) suspended the officer from his duties for three months while the courts began an investigation of the case.

On April 9, police officers from the Yaounde Mobile Intervention Unit No. 1 (GMI) shot and killed Aurelien Mayouga Noundou, a young student who was inside his car with a girl friend; the motive for the killing was unknown. On April 11, the DGSN suspended for three months Denis Serges Ndongo, Benoit Ossobo, Serges Hemery Nsili, and Jean Lereste Atangana, the four Yaounde police officers involved in the shooting. On April 14, the Yaounde prosecutor interrogated the four officers and

placed them under preventive detention at the Kondengui Central Prison, pending trial. They had not been tried by year's end.

On April 16, police officer Herve Touodo Djomo shot and killed his police colleague Claude Obam Ndoum in Ndoum's Douala residence following a dispute. Littoral Province's judicial police arrested Touodo and detained him. On April 18, the DGSN, who directed the national police, suspended Touodo from his duties and ordered that he be stripped of his rank and benefits. At year's end, Touodo was being detained at the Douala New Bell prison and the case had not been tried.

On May 30, the prosecutor completed his investigation into the March 2004 fatal shooting of Abel Ngosso by Samuel Mpacko Dikoume, an officer of the Douala antigang police unit. On August 9, the Douala superior court held the preliminary hearing of the police officer's trial, which did not resume as scheduled by year's end.

On March 1, the general prosecutor of the Buea superior court ordered the arrest and detention of Police Inspector Stephen Ngu, the main suspect in the May 2004 beating and burning of Afuh Bernard Weriwo, who died as a result of his injuries. As part of the case's preliminary investigation, the prosecutor also summoned all the police officers who worked at the checkpoint where the incident occurred, including Police Inspector John Kunde and a police inspector with the last name of Tonye. On March 14, the Kumba superior court held the first hearing of the trial. The trial continued at year's end.

There were no new developments in the following 2004 cases: the February fatal shooting by a police officer of security guard Justin Abena Ngoni in the Central Province town of Mbandjock, or the June killing by a gendarme of Desire Etoundi in Yaounde.

In September the Douala military tribunal added torture as a new charge in the high-profile case against Sergeant Jean Claude Mbita who shot and killed Luc-Benoit Bassilekin in 2000.

There were no new developments in the 2003 appeal of the acquittal of six army officers who had been charged with the execution of nine youths in Bepanda.

On March 24, unidentified armed groups widely believed to be from the Central African Republic (CAR) attacked the Adamawa Province village of Yarmang III, killed traditional leader Ardo Mbakana, and caused thousands of area residents to flee (see section 2.d.).

Mob violence and summary justice against those suspected of theft and the practice of witchcraft continued to result in deaths and serious injuries. Public frustration over police ineffectiveness and the release without charge of many individuals arrested for serious crimes contributed to mob violence (see section 1.d.).

On February 25, a crowd from the Douala neighborhood of Texaco Axe-Lourd burned to death Papi Gosse, who was reportedly caught trying to steal a motorbike. There were no reports of any investigation into the case.

On March 23, citizens of the Douala neighborhood of Bepanda burned to death Jonas Benang and another individual. The crowd reportedly caught the two individuals while they were allegedly breaking into a phone shop. No investigation was underway by year's end.

On September 3, inhabitants of the Douala neighborhood of Bonaberi beat and burned an individual whom they reportedly caught in the act of breaking into a residence. The Littoral Province judicial police were investigating the case at year's end.

There were no new developments in any of the killings by mobs in 2004 or 2003.

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

Some disappearances of persons who were in the custody of security forces in past years may be attributed to summary executions by security forces either in Douala or the northern regions; in these instances, bodies rarely were found, but the suspects were presumed dead.

On March 30, the government-owned radio station Cameroon Radio Television (CRTV) reported that road bandits took more than 20 persons hostage in the East and Adamawa provinces. The bandits reportedly demanded \$80 thousand (44 million CFA francs) for their return. They killed one traditional ruler and released another one for eight thousand dollars (4.4 million CFA francs). At year's end the status of the others kidnapped was not known.

At the beginning of the year, without Cameroonian government permission, agents of Equatorial Guinea's government captured 20 Cameroonians and took them to Equatorial Guinea for alleged crimes. At year's end neither the nature of the crimes of which they were accused nor the status of the Cameroonians was known.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were credible reports that security forces continued to regularly torture, beat, and otherwise abuse prisoners and de-

tainees. In the majority of cases of torture or abuse, the government rarely investigated or punished any of the officials involved; however, in at least one case during the year, gendarmerie officers who tortured a citizen to death were detained and investigated (see section 1.a.). There were reports that security forces detained persons at specific sites where they tortured and beat detainees (see section 1.a.). Security forces also reportedly subjected women, children, and elderly persons to abuse. Numerous international human rights organizations and some prison personnel reported that torture was widespread; however, most reports did not identify the victim because of fear of government retaliation against either the victim or the victim's family. Most victims did not report torture for fear of government reprisal or because of ignorance of or lack of confidence in the judicial system.

In New Bell and other nonmaximum security penal detention centers, prison guards inflicted beatings, and prisoners were reportedly chained or at times flogged in their cells. Authorities often administered beatings in temporary holding cells within a police or gendarme facility. Two forms of physical abuse commonly reported by male detainees were the "bastonnade," where authorities beat the victim on the soles of the feet, and the "balancoire," during which authorities hung victims from a rod with their hands tied behind their backs and beat them, often on the genitals.

Security forces continued to subject prisoners and detainees to degrading treatment, including stripping, confinement in severely overcrowded cells, and denial of access to toilets or other sanitation facilities. Police and gendarmes often beat detainees to extract confessions or information on alleged criminals. Pretrial detainees were sometimes required, under threat of abuse, to pay "cell fees," a bribe paid to prison guards to prevent further abuse.

During the year there were reports that persons in police and gendarmerie custody died as a result of torture (see section 1.a.).

On January 8, Minister of Tourism Baba Hamadou reportedly led a group of five police officers to a gas station in Yaounde where they repeatedly beat Genevieve Toupouwou and Gregoire Angotchou, employees of the gas station. The minister had been angered by Angotchou's insistence on checking a gas coupon the minister had presented as payment. The Center Province office of the judicial police was investigating the incident at year's end.

On February 3, police officers of the GMI of the North West Province town of Bamenda assaulted and seriously wounded Nelson Ndi Nagyinkfu, the province's executive secretary of the NCHRF. During a drivers' strike, Ndi witnessed police beating street vendors and asked Celestin Abana, the commander of the police patrol, to stop the beatings. Abana ordered his troops to "finish" Ndi. Ndi filed a complaint with the province's governor, and an investigation was underway at year's end.

In March security forces beat and arrested 50 students in the West Province town of Bafoussam for participating in an illegal demonstration. The students were protesting the conviction of one of their professors who was sentenced to 12 years in prison for theft of academic materials.

There were no new developments in the January 2004 beating of a man named Bikele by police officers; or the June 2004 assault and arrest of barrister Epie Nzoukwele by a local government official.

Security forces physically abused and harassed journalists during the year (see section 2.a.).

Unlike in the previous year, there were no reports that security forces sexually abused individuals during the year.

There were no new developments in the January 2004 sexual abuse of Biloua Ndongo by a gendarmerie mobile unit in the Melen neighborhood of Yaounde.

Some illegal immigrants were subjected to harsh treatment and imprisonment. Police and gendarme often targeted Nigerian and Chadian communities when seeking to identify illegal immigrants. During raids, members of the security forces extorted money from those who did not have regular residence permits or those who did not have valid receipts for store merchandise.

Prison and Detention Center Conditions.—Prison conditions remained harsh and life threatening. Prisons were seriously overcrowded, unsanitary, and inadequate, especially outside major urban areas. Due to a lack of funds, serious deficiencies in food, health care, and sanitation were common in almost all prisons, including "private prisons" operated by traditional rulers in the north. Prisoners were kept in dilapidated colonial-era prisons, where the number of inmates was four to five times the intended capacity. According to a 2004 report by the International Center for Prison Studies, published by the Catholic newspaper *La Croix*, there were 67 prisons for the country's approximately 20 thousand detainees. Overcrowding was exacerbated by the large number of long pretrial detentions (see section 1.d.).

During the year 800 individuals hired and trained to work in the prison system entered into full-time duty. In December 2004 the government shifted the responsi-

bility for administering and overseeing prisons and detention centers and all individuals arrested by security forces from the Ministry of Territorial Administration and Decentralization to the Ministry of Justice. In addition the government created a human rights body within the Ministry of Justice to monitor abuses in prisons and jails (see section 4).

There were deaths in prisons due to harsh conditions and neglect. For example in early March Djabba Bouba, a prisoner in the Douala prison, was found dead in his cell due to a lack of food. All 30 other suspects arrested in March with Bouba on charges of banditry were held in the same cell. They were not given food or water during the first three nights and two days of their detention. Before Bouba's death the 31 prisoners had requested a larger cell and water and said they were suffocating from the lack of room and heat. An internal investigation was underway at year's end.

Some prisoners also died due to lack of adequate medical care. Health and medical care were almost nonexistent in the country's prisons and in its detention cells, which were housed in gendarmeries and police stations. On August 12, Daniel Moses Etock, a detainee awaiting trial since 2003 in the Kumba prison of South West Province, died due to a lack of medical care. Prisoners' families were expected to provide food for their relatives in prison. Douala's New Bell Prison contained 7 water taps for a reported 3,500 prisoners, contributing to poor hygiene, illness, and death.

Prison officials regularly tortured, beat, and otherwise abused prisoners with impunity. Corruption among prison personnel was widespread. Prisoners sometimes could bribe wardens for special favors or treatment, including temporary freedom. Prisoners in New Bell prison could pay bribes for more comfortable sleeping arrangements and to avoid doing prison chores.

During the year prison officials failed to prevent and reportedly encouraged violence among prisoners. On January 3 in the Douala New Bell Prison, Jean-Pierre Boudi (also known as Ibrahim Baba) died from a beating he received from 30 inmates belonging to an "antigang," a group of convicts serving long prison terms whom prison wardens used to control other prisoners. Following the beating of Boudi, 15 inmates were seriously wounded when other prisoners attacked the antigang members. The results of an investigation by the prosecutor of the Douala court were pending at year's end. On January 26, following a visit by government officials to Kondengui Central Prison in Younde, the government banned antigangs. There were no other reports during the year of antigang violence in prisons.

There were separate prisons for women. There were also a few pretrial detention centers for women; however, women routinely were held in police and gendarmerie complexes with men, occasionally in the same cells. In July 2004 the Center for Human Rights and Peace Advocacy, a human rights organization based in Bamenda in the North West Province, criticized this practice. Mothers sometimes chose to be incarcerated with their children or babies while their children were very young or if they had no other child care option.

Juvenile prisoners often were incarcerated with adults, occasionally in the same cells or wards. There were credible reports that adult inmates sexually abused juvenile prisoners. Pretrial detainees routinely were held in cells with convicted criminals. Some high-profile prisoners were separated from other prisoners and enjoyed relatively lenient treatment.

In temporary detention centers—usually housed in gendarmeries and police stations—adults, juveniles, and women were held together. Prisoners usually received no food, water, or medical care. Detention center guards at times resorted to corruption, accepting bribes from detainees and allowing them access to better conditions, including permission to stay in an office instead of a cell. Those whose families were informed of their incarceration, relied on their relatives for food and medical care. Overcrowding was common in the detention centers and was often aggravated by the practice of "Friday Arrests" (see section 1.d.).

In the North and Extreme North provinces, the government continued to permit traditional chiefs, or *Lamibe*, to detain persons outside the government penitentiary system, in effect creating private prisons. Within the palaces of the traditional chiefdoms of Rey Bouba, Gashiga, Bibemi, and Tcheboa, there were private prisons that had a reputation for serious abuse. In Garoua, in the North Province, palace staff estimated that a total of 50 prisoners were held in the palace prison annually, normally between 1 and 2 weeks. Individuals who were found guilty in Garoua were often beaten or subject to other forms of physical abuse. According to members of all the chiefdoms' palace staffs, individuals accused of serious crimes such as murder were turned over to local police. In June the minister of territorial administration told diplomatic observers that authorities had destroyed the prison in Garoua.

The government permitted international humanitarian organizations access to prisoners. Both the local Red Cross and the NCHRF made infrequent, unannounced prison visits during the year. The government continued to allow the International Committee of the Red Cross (ICRC) to visit prisons. During the year the ICRC stated that the government allowed international nongovernmental organizations (NGOs) to have increased access to prisons.

On July 28, during a visit by diplomatic observers to the Douala New Bell Prison, the prison administrator said that the prison, built to hold 700 inmates, had 3,194. Of these, 2,300 were pretrial detainees, who were not held separate from convicted prisoners. On August 4, during a similar visit to the Yaounde Kondengui prison, the same observers learned that the prison, built for 800 inmates, held 3,521–3 thousand of whom were awaiting trial. In May 2004 a senior official estimated that 1,600 out of 1,800 inmates in Bafoussam prison were pretrial detainees.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, security forces continued to arrest and detain citizens arbitrarily.

Role of the Police and Security Apparatus.—The national police, the National Intelligence Service (DGRE), the gendarmerie, the Ministry of Territorial Administration, the army's military security department, the army, the minister of defense, and, to a lesser extent, the Presidential Guard are responsible for internal security; the national police and gendarmerie have primary responsibility for law enforcement. The Ministry of Defense, including the gendarmerie, national police, and DGRE, are under an office of the presidency, resulting in strong presidential control of security forces. The national police includes the public security force, judicial police, territorial security forces, and frontier police. In rural areas, where there is little or no police presence, the primary law enforcement body is the gendarmerie.

Citizens viewed police as ineffective, which frequently resulted in mob violence (see section 1.a.). It was widely believed that individuals paid bribes to law enforcement and the judiciary to secure their freedom. Police officers and members of the gendarmerie were widely viewed as corrupt and frequently arbitrarily arrested and detained citizens. Police demanded bribes at checkpoints, and influential citizens reportedly paid police to make arrests or abuse individuals in personal disputes (see section 1.c.). According to Transparency International's (TI) 2005 Global Corruption Barometer, citizens viewed the police as extremely corrupt. Impunity remained a problem but was less severe than in previous years. Insufficient funding and inadequate training contributed to a lack of professionalism in the national police.

Edgar Alain Mebe Ngo'o, who in 2004 was appointed DGSN, took significant steps during the year to investigate, suspend, and prosecute security forces accused of abuses. In March Ngo'o rehabilitated the "police of the police," an internal affairs unit of undercover agents that had been dormant for many years. By year's end the unit was functioning and had received funding, although there were no public reports of any cases investigated by this unit. During the year Ngo'o also sanctioned at least 10 members of the national police force who violated laws and regulations during the year (see section 1.a.). For example on March 8, Ngo'o suspended for three months a Douala police officer and a Yaounde police inspector for behavior that "tarnished the image of the police." On the same day Ngo'o suspended another Yaounde-based police inspector for two weeks for keeping a citizen's driving license unnecessarily.

During the year courts convicted a few police officers for violations committed in the past. For example on May 26, the Douala military tribunal sentenced two police inspectors from the Douala Central Police Station No. 1 to six months in jail for the 2001 armed assault and robbery of three Nigerian citizens. On August 23, the Bamenda Court sentenced the Bamenda judicial police commissioner to pay damages of \$1,200 (600 thousand CFA francs) to Edwin Nkwain Mbang for arbitrarily arresting and detaining him during 18 days in 2001.

Arrest and Detention.—The law requires police to obtain an arrest warrant except when a person is caught in the act of committing a crime. Police legally may detain a person in connection with a common crime for up to 24 hours and may renew the detention 3 times before bringing charges; this provision was generally respected, although there were unverifiable reports that police occasionally violated it. The law provides for the right to judicial review of the legality of detention only in the country's two Anglophone provinces, and this provision was respected in practice. In the country's Francophone provinces, the French legal tradition applies, precluding judicial authorities from acting on a case until the authority that ordered the detention turns the case over to the prosecutor. In practice these processes took between 15 days to a month. In Francophone provinces after a magistrate has issued a warrant to bring the case to trial, he may hold the detainee in administrative or pretrial detention indefinitely, pending court action. During the year such detention often was

prolonged, due to the understaffed and mismanaged court system. The law permits detention without charge by administrative authorities such as governors and senior divisional officers for renewable periods of 15 days ostensibly to combat banditry and maintain public order. Persons taken into detention frequently were denied access to both legal counsel and family members. The law permits release on bail only in the Anglophone provinces; however, in practice bail was granted infrequently.

In June the National Assembly passed a Code of Criminal Procedure, which will enter into force in 2006. The code extends the right of individuals to be released on bail to the whole country. It also allows those arrested and held in police and gendarmerie facilities for investigation to be assisted by a lawyer from the beginning of their detention.

Police and gendarmes often arrested persons on spurious charges on Fridays at mid-day or in the afternoon. While the law in the Anglophone provinces provides for a judicial review of an arrest within 24 hours, the courts did not convene sessions on the weekend, so a detained individual who was arrested on a Friday typically remained in detention until at least Monday. Police and gendarmes made such "Friday arrests" after accepting bribes from persons who had private grievances. There were no known cases of policemen or gendarmes who were sanctioned or punished for this practice.

Security forces and government authorities continued to arbitrarily arrest and detain persons, often holding them for prolonged periods without charges or trials and, at times, incommunicado. There were reports of political detainees, including Anglophone citizens advocating secession, local human rights monitors/activists, journalists, and other critics of the government (see sections 2.a. and 2.b.). Police also arrested persons during unauthorized demonstrations (see section 2.b.).

During the year security forces arrested approximately 100 leaders, members and supporters of the Southern Cameroons National Council (SCNC), an Anglophone secessionist group (see sections 2.a., 2.b., and 5). The government considered the SCNC an illegal organization because it advocated secession, which the law prohibits. The majority of SCNC members arrested during the year were not charged with any crime and were released after brief detentions. However, during the year police detained seven members of the SCNC leadership for periods of up to three months, and at year's end all seven remained in detention awaiting trial. For example on September 21, security forces arrested several SCNC activists in the North West Province town of Belo while they were holding a meeting and distributing T-shirts. While most of these individuals were released from custody after brief detentions, authorities charged three SCNC leaders with disturbing the public order and transferred them to a prison in Bamenda. At year's end they remained in prison and their trials were ongoing.

The government arrested a labor leader during a sit-in (see section 6.a.).

There were no developments regarding the November 2004 arrest of a Human Rights Defense Group member by a North West Province chief.

Police frequently arrested persons without identification during sweeps (see section 1.f.).

The law stipulates that detainees must be brought promptly before a magistrate; however, arbitrarily prolonged pretrial detention remained a serious problem, and sometimes persons were held incommunicado for months or even years (see section 1.c.). For example in Douala's New Bell prison and Yaounde's Kondengui prison, of 6,715 detainees, 5,300 were in pretrial detention. This high number of pretrial detainees was due to a multitude of factors, including the complexity of cases, staff shortages, and corruption. The average pretrial detention period ranged from one to five years. Longer detention periods were often linked to the loss of a file and the absence of a lawyer to follow up on the case. On January 14, the Union of North West Human Rights Organizations said it had visited 20 detainees of the Bamenda prison who had each been awaiting trial for 10 years.

There was no information available on Barnabe Atangana or Benoit Bilongo, who remained in pretrial detention at the end of 2004 after 20 years and 7 years, respectively.

The law specifies that, after an investigation has concluded, juveniles should not be detained without trial for longer than three months; however, in practice the government detained juveniles for longer periods of time. For example at the end of 2004 Michel Sighanou, a juvenile who was transferred from the Yabassi prison to another prison in 1996, had been awaiting trial for more than seven years; no additional information was available at year's end.

In recent years there have been reports that some prisoners remained in prison after completing their sentences or having been released under a court ruling. During a July visit to Douala, a Catholic prison chaplain told diplomatic observers that there were still many such cases. In August 2004 the media reported that more

than 100 prisoners in Douala were being held after the completion of their terms and that many of them were being held because they had been unable to pay court fees. During 2004 lawyers representing these individuals filed suit for their release and also filed a complaint at the European Court of Human Rights seeking the prisoners' immediate release. At year's end many of these detainees were still being held because they still had not paid the fees or damages they owed.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the judiciary remained highly subject to executive influence, and corruption and inefficiency remained serious problems. The court system was subordinate to the Ministry of Justice, which was part of the presidency. The constitution specifies that the president is the guarantor of the legal system's independence. He also appoints all judges with the advice of the Supreme Council of the Magistrature. Some politically sensitive cases were never heard by the courts. However, the judiciary showed modest signs of growing independence. During the year the courts found the government liable for damages in a few human rights cases involving abuses by security officers.

The court system includes the Supreme Court, a court of appeals in each of the 10 provinces, and courts of first instance in each of the country's 58 divisions.

The legal system includes both national law and customary law, and many criminal and civil cases can be tried using either one; however, criminal cases are generally tried in statutory courts, and customary court convictions involving witchcraft automatically are transferred to the statutory courts, which act as the court of first instance. Customary law, which is used most frequently in rural areas, is based upon the traditions of the ethnic group predominant in the region and is adjudicated by traditional authorities of that group. Customary law is deemed valid only when it is not "repugnant to natural justice, equity, and good conscience." However, many citizens in rural areas remained unaware of their rights under civil law and were taught that they must abide by customary laws. Customary law ostensibly provides for equal rights and status; however, men may limit women's right to inheritance and employment, and some traditional legal systems classify wives as the legal property of their husbands (see section 5).

Customary courts served as a primary means for settling civil disputes in rural areas, primarily in family-related civil cases, such as in matters of succession, inheritance, and child custody. Divorce cases can be brought to customary courts only if the government has not sanctioned the marriage through an official license. Customary courts may exercise jurisdiction in a civil case only with the consent of both parties. Either party has the right to have the case heard by a statutory court and to appeal an adverse decision in a customary court to the statutory courts. Most traditional courts also permitted appeal of their decisions to traditional authorities of higher rank.

The legal structure is influenced strongly by the French legal system, although in the two Anglophone provinces certain aspects of the Anglo-Saxon tradition apply. In the past this mixed legal tradition led to conflicting court action in cases handled in both Francophone and Anglophone jurisdictions. The new Code of Penal Procedure will be applicable nationwide when it enters into force in 2006.

Trial Procedures.—The law provides for a fair public hearing in which the defendant is presumed innocent; however, this provision often was not respected in practice. There is no jury system. Defendants have the right to be present and to consult with an attorney in a timely manner. Defendants generally were allowed to question witnesses and to present witnesses and evidence on their own behalf. Defendants also had access to government held evidence relevant to their cases. Because appointed attorneys received little compensation, the quality of legal representation for indigent clients often was poor. The Bar Association and some voluntary organizations, such as the Cameroonian Association of Female Jurists, offered free assistance in some cases. The Project for the Improvement of Conditions of Detention continued to engage lawyers to work on prison cases. Trials normally were public, except in cases judged by the government (the Ministry of Justice) to have political overtones or to be disruptive to social peace. Defendants have a right to appeal their cases.

There were reports that officials continued to hold individuals in prison beyond the jail terms set by the courts. On April 4, the general prosecutor of the Yaounde superior court reviewed the files of approximately 150 prisoners at the Kondengui prison to check their judicial status. The general prosecutor focused on the case of Germain Dimoli Bekou, who received a death sentence in 1983. In 1992 her death sentence was subsequently commuted to a 20-year detention term. Following various presidential pardons, Bekou should have been released in 2002. The general prosecutor signed Bekou's immediate release.

Political bias by judges (often instructed by the government) often stopped trials or resulted in an extremely long process with extended court recesses. Powerful political or business interests enjoyed virtual immunity from prosecution; some politically sensitive cases were settled with a payoff.

Military tribunals may exercise jurisdiction over civilians when the president declares martial law and in cases involving civil unrest or organized armed violence. Military tribunals also have jurisdiction over gang crimes, banditry, and highway robbery. The government interpreted these guidelines broadly and sometimes used military courts to try matters concerning dissident groups and political opponents. Military trials often were subject to irregularities and political influence.

Political Prisoners.—The government contended that it no longer held political prisoners; however, during the year authorities continued to hold two groups of prisoners who could be considered political prisoners. Fifteen members of the secessionist group SCNC continued to serve long prison sentences. They were part of a group of 37 SCNC members convicted in 1999 after military trials that did not meet international or national legal standards; Amnesty International (AI) and other international human rights NGOs criticized the trials as unfair. In addition the military tribunal admitted into evidence confessions that were credibly alleged in court to have been exacted under torture. These SCNC prisoners continued to claim that they were political prisoners convicted for supporting a political belief; however, the government claimed they were all imprisoned for acts of violence committed against government offices and officers. The government permitted access on a regular basis by international humanitarian organizations.

During the year the government held two additional individuals who could be considered political prisoners. In 1997, police arrested Titus Edzoa, former minister of health and long-time aide to President Biya, and Michel Thierry Atangana, Edzoa's campaign manager in the 1997 presidential elections. The arrests occurred three months after Edzoa had resigned from government and launched his candidacy for president, and three months before the October 1997 elections, in which President Biya was re-elected. In October 1997, after an uncharacteristically quick trial, a court convicted Edzoa and Atangana on charges of embezzlement of public funds, although police initially charged Edzoa with "activities and statements likely to disrupt the public order." Both men were sentenced to 15-year prison terms. Their lawyers were not present for the sentencing. In 1999 a court of appeals confirmed the ruling of the lower court. In 2003 the Supreme Court upheld the 1999 conviction. Edzoa was ordered to pay a substantial fine and incarcerated with Atangana at the maximum-security gendarmerie headquarters, with very limited access to visitors. At year's end they remained in prison.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, these rights were subject to the "higher interests of the state," and there were numerous, credible reports that police and gendarmes harassed citizens, conducted searches without warrants, and opened or seized mail with impunity. The government continued to keep some opposition activists and dissidents under surveillance. Police sometimes punished family members and neighbors of criminal suspects.

The law permits a police officer to enter a private home during daylight hours without a warrant if he is pursuing an inquiry and has reason to suspect that a crime has been committed. The officer must have a warrant to make such a search after dark; however, a police officer may enter a private home at any time in pursuit of a criminal observed committing a crime.

An administrative authority may authorize police to conduct neighborhood sweeps without warrants, at times involving forced entry into homes in search of suspected criminals or stolen or illegal goods. Sweeps continued to occur in Yaounde and Douala, although there were fewer sweeps than in the previous year. Typically security forces sealed off a neighborhood, systematically searched homes, arrested persons arbitrarily, and seized suspicious or illegal articles. There were credible reports that security forces used such sweeps as a pretext to loot homes and arbitrarily arrest persons for minor offenses, such as not possessing identity cards. For example on June 14, the Douala police, accompanied by gendarmes and soldiers, conducted a sweep in the Douala neighborhoods of Bonakuamouang, Bessengue Valley, and Bessengue. During the operation the security forces arrested approximately 100 individuals, mostly young men and women, and held them in a Douala police station until their identity was established, a process that took 24 hours. Several inhabitants from these neighborhoods complained of the police's arbitrary seizure (theft) of electronic devices and cell phones and registered their complaints at the police station. On June 15, police, gendarmes, and soldiers also conducted a sweep in the

Melen neighborhood of Yaounde, where they arrested individuals who had no identification papers. They were subsequently released after paying a fine.

In March and July the minister of land and land titles ordered that houses built on state land in the Yaounde neighborhoods of Ngoussou, Djoungolo, and Ekoudou-Bastos be demolished. The government said the owners of the demolished houses were not entitled to compensation because they were illegal squatters. Hundreds remained homeless at year's end.

There continued to be accusations, particularly in the North and Far North provinces, that traditional chiefs arbitrarily evicted persons from their land.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government continued to restrict these rights in practice. The government sometimes invoked strong libel laws to silence criticism of the government and officials. Journalists, particularly broadcast journalists, often practiced self-censorship as a result of government intimidation, harassment, and criminal penalties for speech-related offenses.

Individuals generally were able to criticize the government publicly and privately without being subjected to government reprisal, although the country's strict libel law resulted in self-censorship. The government prohibited discussion or the advocacy of secession, which resulted in numerous arrests of SCNC members during the year (see section 1.d.). The government monitored the meetings of the SCNC, but not of any opposition parties.

The government published one of the country's few daily newspapers, the *Cameroon Tribune*. It did not report extensively on protests or political parties critical of the government, overtly criticize the ruling party, or portray government programs in an unfavorable light.

During the year approximately 200 privately owned newspapers were published; however, only an estimated 25 were published on a regular basis. *Mutations*, *La Nouvelle Expression*, and *Le Messager*, were the only privately owned daily newspapers. Newspapers were distributed primarily in urban areas, and most continued to criticize the government and report on controversial issues, including corruption, human rights abuses, and economic policies. However, the government used criminal libel laws to inhibit the press, and in 2004 the propagation of false information was also criminalized.

Despite the large number of private newspapers in the country, the influence of print media was minimal. Distribution was problematic outside of major towns, and prices of independent newspapers were high, due largely to high government taxes on newsprint; however, in 2004 the government established a special fund to support the development of the press, particularly newspapers, and funds were dispersed to some private newspapers and radio stations. The government continued to disperse such funds during the year. According to media reports, funding was awarded very selectively, and some media outlets, such as *Mutations* and *Radio Reine*, refused to apply for funds. The government maintained control of newspaper warehouses, but unlike in the previous year, there were no reports that the government seized editions of controversial newspaper editions prior to distribution.

The government tightly controlled the broadcast media. Radio remained the most important medium reaching most citizens. There were approximately 20 privately owned radio stations operating in the country. Approximately 75 percent of private radio stations were concentrated in Yaounde and Douala. Ownership of the private radio stations was very diverse, with only one owner having more than one station. The state-owned CRTV broadcast on both television and radio and was the only officially recognized and fully licensed broadcaster in the country. The government levied taxes on all registered taxpaying citizens to finance CRTV programming, which allowed CRTV a distinct advantage over independent broadcasters.

Nonprofit rural radio stations were required to submit an application to broadcast but were exempt from paying licensing fees. Potential commercial radio and television broadcasters must submit a licensing application and pay an application fee when the application is submitted. Once the license is issued, stations must then pay an annual licensing fee, which potentially was prohibitively costly. Between 1999 and the end of the year, the Ministry of Communication received more than 100 applications from potential broadcasters; however, no licenses had been issued to any private radio or TV stations since 2000. In many cases, the government allowed stations to operate while their license applications were pending, although the legal status of stations established before 2000 was not well defined and appeared to be illegal.

During the year the National Communications Council (NCC), whose members were appointed by the president, continued to review all broadcasting license appli-

cations, the first step in issuing licenses. In addition a technical committee composed of government-appointed members—including government officials, journalists, and jurists—continued to review the NCC's decisions.

The government closed at least one radio station during the year. On June 1, the provincial delegate of communication for South West Province sealed the studios of Lake Side Independent Radio, claiming it operated illegally. The broadcaster had never submitted the appropriate file to the Ministry of Communication and he used a frequency that interfered with other provincial radios and TV. The broadcaster agreed to work on his authorization application, but the station had not been authorized to broadcast on an alternate frequency at year's end.

There were several low-power, rural community radio stations with extremely limited broadcast range that were funded by the UN Educational, Scientific, and Cultural Organization and foreign countries. The government prohibited these stations—which broadcast programs on education, health, the environment, and development to small audiences—from discussing politics.

The law permits broadcasting of foreign news services but requires foreigners to partner with a national station. The BBC, Radio France International, and Voice of America broadcast in partnership with state-owned CRTV.

Television was less pervasive but more influential than print media. The five independent television stations largely avoided criticizing the government, although their news broadcasts sometimes focused on issues of poverty, unemployment, poor education, and the government neglect and corruption which the broadcasts said had caused these problems.

Like the *Cameroon Tribune*, CRTV provided broad reporting of CPDM activities, while giving relatively little attention to the political opposition. During the year CRTV management continued to repeatedly instruct CRTV staff to ensure that government views prevailed at all times.

Security forces, usually acting under the command of local provincial government officials, continued to restrict press freedom by arresting, detaining, physically abusing, threatening, and otherwise harassing journalists. For example on November 10, police severely beat journalists Philip Njaru and Innocent Yuh at a police check point in Buea. The police accused them of being SCNC activists and of using radios as transmitters for the organization, despite the journalists' presentation of press credentials. The two men were hospitalized from their wounds. By year's end no official action had been taken against the police officers responsible for his injuries.

On November 11, police in the North West Province town of Kumbo arrested Andrew Mueller, an Australian freelance reporter for London-based dailies *The Independent* and *The Guardian*, while he gathered information on a story from SCNC Vice President Nfor Ngala Nfor and a local SCNC representative, both of whom were also arrested. Miller, who was reporting in the country without the appropriate visa and credentials and who was about to cover an SCNC meeting when he was arrested, was released without charge after three days of police detention. Both SCNC members were released a week later.

On July 12, the government unsealed the studios of Freedom FM. The government had closed Freedom FM in May 2003 on the grounds that station owner Pius Njawe, who had previously been jailed several times for criticizing the president, had not submitted to the Ministry of Communication a proper application for operation, although Njawe said he had. The minister of communication agreed to reopen the station after extensive negotiations between government representatives and the Free Media Group, the radio station's parent company. The minister withdrew the government's 2003 lawsuit against the station and promised to provide Freedom FM with a "provisional authorization to operate." On August 8, the minister of communication reminded Njawe of his commitment to withdraw his complaint filed at the African Commission on Human and Peoples' Rights. The minister said that delaying the withdrawal of the complaint would also delay the issuance of the provisional authorization to operate. By year's end the government had not allowed Freedom FM to begin broadcasting and the station's broadcast equipment remained sealed.

During the year a court rejected a 2004 appeal by a divisional officer (local government official) and ordered him to pay a fine of approximately \$1,500 (750 thousand CFA francs) because of actions he took in 2003 against a radio station. The court upheld the Bui high court's April 2004 ruling that said the divisional officer had acted illegally when he closed Radio Oku in 2003, temporarily detained four members of Radio Oku's board of directors, and placed three other members under temporary house arrest. During the year the officer relinquished control of the station, which he and other government agents had seized by force in May 2004; however, by year's end he had not paid the fine, and no official action had been taken

against him for arresting and temporarily detaining the station manager and board chairman in April 2004.

Unlike in the previous year, there were no reports that the government indirectly censored the media by controlling advertising revenues. However, since the government was the largest advertiser in the country by far and could choose which media outlets from which to buy advertising, it continued to have a certain degree of influence over media outlets.

The government prosecuted its critics in the print media through criminal libel laws. These laws authorized the government, at its discretion and the request of the plaintiff, to criminalize a civil libel suit or to initiate a criminal libel suit in cases of alleged libel against the president and other high government officials; such crimes are punishable by prison terms and heavy fines. The libel law places the burden of proof on the defendant. Local leaders in particular abused this law to keep local reporters from reporting on corruption and abusive behavior.

On January 10, a Douala court sentenced Jules Koum Koum, publisher of the independent Douala-based bimonthly *Le Jeune Observateur*, to six months in jail on charges of defamation. In April 2004 Koum Koum published an article in which he accused two insurance companies of mismanaging their funds. On February 9, the Douala court of appeals ordered Koum Koum's provisional release from New Bell Prison, and he was released the next day. By year's end an appeal trial had not yet begun, and the insurance company CPA had filed two additional complaints related to Koum's article. The two additional complaints were dropped, and no charges were pending at year's end.

On April 20, a court in the Far North Province town of Maroua sentenced in absentia Guibai Gatama, publisher of the weekly *L'oeil du Sahel*, and Abdoulaye Oumate, a journalist with the same newspaper, to 5 months in prison and ordered them to pay a fine of approximately \$10 thousand (5 million CFA francs) in a defamation case filed by Ahmed Aliou Ousman, the gendarmerie brigade commander of the Far North Province town of Fotokol. The judgment followed the newspaper's publication of a February article alleging that gendarmes from the brigade had extorted money from travelers at roadblocks. According to the New York-based press freedom NGO Committee to Protect Journalists (CPJ), the staff of *L'oeil du Sahel* was not informed of Aliou's charge or of the judicial hearing until after the court had passed the sentence. The newspaper was one of the few independent media outlets to operate in the north, and local sources told CPJ that local authorities had frequently harassed the newspaper's journalists. At year's end Gatama had filed an appeal, and a second commander named in the article had also filed criminal defamation charges. At year's end the trial was still pending.

On July 6, a prosecutor ordered the arrest and indefinite detention of Joseph Bessala Ahanda, chief editor of the private weekly *Le Front*, during an investigation of defamation allegations against him. Ahanda's arrest followed the newspaper's publication of a series of reports alleging that the former director of the country's postal services and the publisher of a private newspaper collaboratively embezzled state funds. On July 21, Ahanda was released without charge from Yaounde's Kodengui prison.

On August 17, a court in the Far North Province town of Maroua sentenced in absentia *L'oeil du Sahel* publisher Gatama, ordering him to pay damages of approximately \$24 thousand (12 million CFA francs) in a libel case filed by the province's chief of military security and the Domayo public high school headmaster. In 2003 the paper had written that the chief of military security had beaten the headmaster because the chief's children were among the students who had been assigned to clean the school. According to CPJ, the staff of *L'oeil du Sahel* was not informed of the charge or of the judicial hearing until after the court had passed the sentence. Gatama told CPJ in an interview that military officers had brought at least 12 court cases against the newspaper between January and August, threatening the newspaper's financial survival. CPJ said that during the year *L'oeil du Sahel* frequently reported alleged abuses of power by security forces in the area and had often been threatened by local officials and soldiers.

In March according to press reports, Eric Wirkwa Tayu, the publisher of the small private newspaper *Nso Voice* based in Kumbo, remained in jail, despite having served a court's five-month prison term following a July 2004 conviction on charges of defaming Kumbo's mayor. Tayu reportedly was unable to pay the \$600 (300 thousand CFA francs) court-imposed fine, resulting in a doubling of his term of imprisonment.

On March 16, the Union of Cameroonian Journalists created the Cameroon Media Council (CMC), an independent self-regulating body of journalists aiming to promote press freedom, access to information, professionalism, and ethical reporting. The CMC, which the minister of communication said he supported, also had as part of

its mission the goal of reviewing and disciplining media professionals and arbitrating complaints against journalists. Complaints included ethical breeches, such as the common practice for newspaper reporters and editors of accepting payments from politicians and businessmen to write articles containing unsubstantiated allegations against the opponents and competitors of their benefactors.

Unlike in the previous year, there were no reports that the government attempted to monitor the Internet. There were also no reports that the government restricted access to the Internet.

Although there were no legal restrictions on academic freedom, state security informants operated on university campuses. Professors said that participation in opposition political parties could adversely affect their professional opportunities and advancement. During the year strikes in the state Universities of Yaounde I, Dschang, Douala, and Buea deteriorated and resulted in violent confrontations between students and security forces (see section 2.b.).

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, the government restricted this right in practice.

The law requires organizers of public meetings, demonstrations, or processions to notify officials in advance but does not require prior government approval of public assemblies and does not authorize the government to suppress public assemblies that it has not approved in advance. However, officials routinely have asserted that the law implicitly authorized the government to grant or deny permission for public assembly. Consequently, the government often did not grant permits for assemblies organized by persons or groups critical of the government and repeatedly used force to suppress public assemblies for which it had not issued permits.

Security forces forcibly disrupted the demonstrations, meetings and rallies of citizens, trade unions, and groups of political activists throughout the year, and some deaths resulted from the police's use of excessive force to disperse demonstrations.

On numerous occasions throughout the year, authorities refused to grant permission to hold rallies and meetings to political groups that the government deemed illegal. For example on August 24, the prefect of the Mezam division of North West Province banned all public demonstrations, rallies, or meetings—even in private residences—held by the SCNC in the whole Mezam Division. According to the government, the SCNC was an illegal organization that fostered secession, an activity prohibited by law.

Throughout the year, security forces disrupted SCNC meetings, even those in private residences, arresting SCNC activists and releasing them a couple of days later. For example on January 15, police in the South West Province capital Buea broke into the residence of Henry Fossung, the leader of a faction of the SCNC; broke up an SCNC meeting; and arrested 50 members and sympathizers. Some of the participants were injured during the operation. While police released Fossung later the same day, police detained and interrogated the others for 24 hours before releasing them.

In advance of the annual celebration of Southern Cameroon "independence" on October 1, the government engaged in a campaign of closing down SCNC rallies and meetings. This was accompanied by a heavy-handed propaganda effort by Anglophone government officials in order to counteract SCNC statements.

Police forcibly dispersed student demonstrations during the year. In March security forces beat and arrested 50 students in the West Province capital Bafoussam on charges of participating in an illegal demonstration; it was deemed illegal because the students had not requested formal permission to rally. The students, who were released following brief detentions, were protesting the conviction of one of their professors who was sentenced to 12 years in jail for theft of academic materials. Human rights NGOs criticized police conduct.

On April 28, security forces shot and killed two University of Buea students, Gilbert Forlen and Aloysius Embwam, during a protest and strike by university students in the South West provincial capital Buea. A third student died of wounds she sustained during the clash with police and gendarmes, and many others were taken to the hospital as a result of security forces' use of tear gas and water cannons. The clash occurred when students took to the streets to reach the province's governor and hand in their complaints about school fees and academic and living conditions. A police officer with the last name of Miphiri was identified as the shooter and was arrested and transferred to Yaounde. The investigation continued at year's end, and no trial had begun.

Unlike in the previous year, there were no reports that security forces broke up or disrupted gatherings of the Social Democratic Front (SDF), an opposition party, during the year.

On October 1, a traditional day of protest for the SCNC, security forces arrested and detained some activists in the North West and South West provinces because of activities such as raising an SCNC flag in a public market place. They were released after a few days' detention.

No action reportedly was taken against the members of the security forces who forcibly dispersed demonstrations in 2004 or 2003.

Freedom of Association.—The law provides for freedom of association, but the government limited this right in practice. On August 21, gendarmes of the North West Province arrested 17 SCNC activists in the localities of Bafut, Tubah, and Fundong for holding meetings in private residences and wearing SCNC T-shirts. Police transferred these activists to the Bamenda central prison, and on August 13 police released without charge 13 of those arrested. At year's end four activists remained in detention on criminal charges, and a trial was pending. At year's end the prefect of Douala's Wouri Division had not lifted a June 2003 ban on all activities of the Front of Alternative Forces, a coalition of associations and parties created prior to 2004 presidential elections (and which since disbanded); the prefect said that the group was disorderly and had not applied for legal status.

The conditions for government recognition of a political party, a prerequisite for many political activities, were not onerous. More than 180 political parties operated legally, together with a large and growing number of civic associations.

One of the groups that encountered the most forceful action from the government was the SCNC. Through arrests and other actions, the government committed many violations of the freedom of association rights of SCNC members and supporters during the year. The SCNC was considered an illegal organization because it advocated secession, which the law prohibits, and because it has never formally registered as a political organization. The government considered all SCNC activities illegal (see sections 2.a. and 5).

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice; however, there were a few exceptions.

Religious groups must be approved and registered with the Ministry of Territorial Administration and Decentralization to function legally. Although there were no reports that the government refused to register any group, the process usually took several years, due primarily to administrative delays. The government did not register traditional religious groups on the grounds that the practice of traditional religion was a private concern observed by members of a particular ethnic or kinship group or the residents of a particular locality.

There were no further developments in the January 2004 arrest and detention of Michel Atanga Effa and Gervais Balla for the 2003 murder of a priest, or in the May 2004 beating of Pastor Alombah Godlove by the traditional ruler of his village.

The practice of witchcraft is a criminal offense under the law; however, individuals generally were prosecuted for this offense only in conjunction with another offense, such as murder. Witchcraft traditionally has been a common explanation for diseases of unknown cause.

Societal Abuses, Discrimination and Anti-Semitism.—Discrimination in the northern provinces, especially in rural areas, by Muslims against Christians and persons who practiced traditional indigenous religions remained strong and widespread.

The size of the Jewish community was very small, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, security forces routinely impeded domestic travel during the year.

Roadblocks and checkpoints manned by security forces proliferated in cities and most highways, making road travel both time-consuming and costly. Extortion of small bribes was commonplace at these checkpoints. Police frequently stopped travelers to check identification documents, vehicle registrations, and tax receipts as security and immigration control measures. Unlike in the previous year, there were no reports that security forces killed individuals suspected of evading checkpoints.

There were credible reports that police arrested and beat individuals who failed to carry their identification cards (see section 1.f.).

The law prohibits forced exile, and the government did not use it; however, some human rights monitors or political opponents who considered themselves threatened by the government left the country voluntarily and declared themselves to be in political exile. For example in July 2004, Anna Ndep Takem, an SCNC activist, reportedly fled the country after learning that authorities were planning to arrest her for

providing food and assistance to detained SCNC activists in the Yaounde Central Prison.

On April 14, the government, the Nigerian High Commission to Cameroon, and the Office of the UN High Commissioner for Refugees (UNHCR) signed a tripartite agreement for the voluntary repatriation of 10 thousand of the 17 thousand Nigerian Fulani cattle breeders who fled their homes in 2001 to escape ethnic fighting. The repatriation operation started on April 18, resulting in the repatriation of at least 10 thousand refugees by year's end.

Internally Displaced Persons (IDPs).—In late March, between 10 thousand and 15 thousand citizens in and around the Adamawa Province villages of Djohong and Ngaoui were displaced following attacks and looting by unidentified armed groups from the CAR. According to Adamawa Province's governor, the armed groups targeted cattle herders of the M'bororo ethnic group, kidnapping them and demanding ransom because of the perceived wealth of the M'bororo (see section 1.b.). The government reportedly sent troops in April to restore order in the border area. During the year the government worked with the UNHCR to protect and assist IDPs.

Protection of Refugees.—The law provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system of providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. In June the National Assembly passed legislation that formally establishes the status of refugees, and the president signed it into law on July 27.

The government also provided protection to certain individuals who may not qualify as refugees under the 1951 convention and its 1967 protocol. At year's end the UNHCR estimated that the country provided temporary protection to approximately 40,000 refugees, the majority of whom were Chadian and Nigerian, in addition to 6 thousand asylum seekers. Between January and December, as a result of numerous attacks and kidnappings by unidentified armed groups in the CAR, between 3 thousand and 10 thousand members of the M'bororo ethnic group reportedly fled the CAR to Cameroon, according to UN agencies and local human rights groups.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

The UNHCR confirmed that three thousand refugees from the CAR, mostly M'bororos, had been registered in the Adamawa Province of Cameroon and that armed groups had conducted massive attacks on the M'bororo population on the Cameroonian side of the border. In late April, the Cameroon and CAR armies launched a joint military operation against those armed groups.

In March and April hundreds of individuals claiming to be refugees protested in the streets, saying that the UNHCR and the Cameroonian Red Cross had violated their rights. The true status of the protesters was difficult to determine. UNHCR stated that most of them were economic immigrants and therefore not entitled to refugee privileges. The protesters complained that they were not being allowed to relocate to a country of their choice. Others also complained that refugee certificates were delayed in delivery. UNHCR stated that it was not issuing certificates because these protesters did not qualify for refugee status.

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

The law provides that citizens have the right to change their government peacefully; however, dominance of the political process by the president and his party and electoral intimidation, manipulation, and fraud severely limited the ability of citizens to exercise this right.

Elections and Political Participation.—In October 2004 President Biya, who has controlled the government since 1982, was re-elected with approximately 70 percent of the vote in an election widely viewed as freer and fairer than previous elections and in which opposition parties fielded candidates. However, the election was poorly managed and marred by irregularities, in particular in the voting registration process, but most international observers deemed that the irregularities did not prevent the elections from expressing the will of the voters. Some observers said progress had been made and called the election transparent; others, such as the Commonwealth Observer Group, stated that the election lacked credibility. Some opposition parties alleged that there was multiple voting by individuals close to President Biya's party and massive vote rigging. One domestic group described the election as a masquerade. The 2002 legislative elections, which were dominated by the

CPDM, largely reflected the will of the people; however, there were widespread irregularities.

Since 1991 only government bills proposed by the presidency have been enacted by the National Assembly; however, in April 2004 the National Assembly agreed to consider a bill submitted by the leading opposition party. Only parties with representatives in the National Assembly can submit bills for consideration. During its June session, the National Assembly refused to consider a bill on electoral reform tabled by the SDF, the leading parliamentary opposition party.

The president's control over the country's administrative apparatus was extensive. The president appoints all ministers, including the prime minister, and also directly appoints the governors of each of the 10 provinces. The president also has the power to appoint important lower level members of the 58 provincial administrative structures.

The right of citizens to choose their local governments remained circumscribed. The government increased greatly the number of municipalities run by presidentially appointed delegates, who have authority over elected mayors. Delegate-run cities included most of the provincial capitals and some division capitals in pro-opposition provinces; however, this practice was nonexistent in the southern provinces, which tended to support the ruling CPDM party. In municipalities with elected mayors, local autonomy was limited since elected local governments relied on the central government for most of their revenue and administrative personnel.

There were more than 180 registered political parties in the country; however, fewer than 10 had significant levels of support, and only 5 had seats in the National Assembly. The ruling CPDM held an absolute majority in the National Assembly; opposition parties included the SDF, based in the Anglophone provinces and the largest of the opposition parties, the National Union for Democracy and Progress, the Cameroon Democratic Union, and the Union of the Peoples of Cameroon.

Members of the Beti ethnic group, including the Bulu subgroup to which the president belonged, figured prominently in the government, civil service, and the management of state-owned businesses.

Women held 18 of 180 seats in the National Assembly, 6 of 61 cabinet posts, and a few of the higher offices within the major political parties, including the ruling CPDM.

Many of the key members of the government were drawn from the president's own Beti/Bulu ethnic group, as were disproportionately large numbers of military officers and CPDM officials. Pygmies were not members of the legislature or the government.

Government Corruption and Transparency.—Corruption remained a serious problem in all branches of Government. The public perception was that judicial and administrative officials were open to bribes in almost all situations. According to a TI survey published in December, an average household paid \$205 (113 thousand CFA francs) each year in bribes, or more than 20 percent of the average person's annual income; the average annual income per person was approximately \$800 (440 thousand CFA francs).

During the year local and international activists continued to criticize the government's lack of transparency in managing revenues from an international oil pipeline. In response to pressure from international financial institutions, the government agreed in March to the conditions of the Extractive Industries Transparency Initiative and published oil revenues from the first six months of the year on the prime minister's Web site.

During the year the government took some steps to fight corruption. For example in March, the government installed a new computer program to detect fraudulent state employees and to better control the number of its civil servants and employees. By year's end the system revealed at least three thousand "ghost" employees who did not exist or who were fraudulently drawing salaries.

In June and August, the government hired 22 potential candidates for the Audit Bench of the Supreme Court. On August 24, the 22 started a 2-month training at the National School of Administration and Magistracy. In early December the President appointed the Audit Bench Magistrates, who were sworn in and had begun to review the budget by year's end.

There was a National Corruption Observatory to combat corruption within the government at all levels; however, it remained severely underfunded. The observatory has the power to investigate cases, which are then handed over to the Ministry of Justice to be verified and sent to the courts for prosecution. The observatory did not investigate any cases of corrupt government officials this year.

There were two publicized prosecutions of corrupt government officials during the year. In April the Yaounde superior court sentenced Menouga Mevoa, a former post office manager, to 15 years in jail for the 2003 embezzlement of \$1.8 million (900

million CFA francs). In June the Yaounde superior court held the first hearings in the trial of three postal services officers accused of embezzling \$2 million (101 million CFA francs) in public funds in 2002. The trial was still underway at year's end.

On May 31, President Biya created the National Agency for the Investigation of Financial Crimes. Part of its mission is to fight money laundering, corruption-related enrichment, and the embezzlement of public funds. The president appointed officials to the agency on August 10, and they were sworn in on September 21. The agency was functioning by year's end.

There were no laws providing citizens with access to government information, and in practice, such access was difficult to obtain. Most government documents were not available to the public, including the media.

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 findings on human rights cases; however, government officials repeatedly impeded the effectiveness of local human rights NGOs during the year by harassing members of human rights groups, limiting access to prisoners, refusing to share information, and threatening and using violence against personnel. Throughout the year, police continued to harass Philip Njaru, a human rights activist and executive director of the Kumba-based Friends of the Press Network, a human rights organization in Southwest Province. Access by international NGOs to prisons reportedly improved during the year (see section 1.c.). The activities of virtually all of these groups were limited by a shortage of funds and trained personnel. Observers criticized the country's NGO laws for giving the government the opportunity to deny authorization to operate and eliminate NGOs by decree.

Numerous domestic human rights NGOs operated in the country, including, among others, the National League for Human Rights, the Organization for Human Rights and Freedoms, the Association of Women against Violence, the Movement for the Defense of Human Rights and Freedoms, and the Cameroonian Association of Female Jurists.

Unlike in the previous year, there were no reports that the government arrested NGO members. There were no further developments in the 2003 arrest of Abdoulaye Math, who was awaiting trial at year's end.

In September AI released a report, *Contracting out of Human Rights: The Chad-Cameroon Pipeline Project*, that criticized the government for placing financial interests above the concerns of citizens. Citing claims that the 2003 construction of an oil pipeline running from Douba in southern Chad to the port city of Kribi in southwest Cameroon had damaged the livelihoods of fishermen, AI called on the government to offer recourse to the fishermen and to amend the agreements with oil companies to safeguard human rights. The government continued to work with the conglomerate running the pipeline to identify communities affected by the pipeline and to offer remuneration and other self-help projects.

The government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations such as the ICRC.

The NCHRF has the authority to summon witnesses and publish reports and the findings of its investigations. On July 7, the president signed the implementing decree for a law passed by the National Assembly in July 2004 that expanded the powers of the NCHRF and authorized it to summon witnesses and publish reports and investigation findings. It also created a permanent secretariat, a division in charge of the protection and promotion of human rights and freedoms. While the NCHRF remained hampered by a shortage of funds, during the year it conducted a number of investigations into human rights abuses, visited prisons, and organized several human rights seminars aimed at judicial officials, security personnel, and other government officers. Although the commission infrequently criticized the government's human rights abuses publicly, its staff intervened with government officials in specific cases of human rights abuses by security forces, attempted to stop Friday arrests (see section 1.d.), and sought to obtain medical attention for jailed suspects in specific cases.

In February the government created a division of human rights in the Ministry of Justice to investigate and report on all cases of human rights abuses in the areas under the ministry's responsibility, including prisons, jails, and courtrooms.

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

The law does not explicitly forbid discrimination based on race, language, or social status, but the law prohibits discrimination based on gender and mandates that "everyone has equal rights and obligations"; however, the government did not enforce

these provisions effectively. Violence and discrimination against women, trafficking in persons, discrimination against ethnic minorities, and discrimination against homosexuals were problems.

Women.—Domestic violence against women was common. While there were no reliable statistics on violence against women, a large number of newspaper reports indicated that the phenomenon was widespread. The law does not specifically prohibit domestic violence, but assault is prohibited and is punishable by prison terms and fines; however, in practice the government did not effectively enforce it in the case of assault on women. Women's rights advocates reported that the law does not impose effective penalties against men who commit acts of domestic violence. There are no gender-specific assault laws, despite the fact that women were the predominant victims of domestic violence. Spousal abuse is not a legal ground for divorce. In cases of sexual assault, a victim's family or village often imposed direct, summary punishment on the suspected perpetrator through extralegal means, ranging from destruction of property to beating. During the year there were no reports of any convictions, or of any action by the government to combat domestic violence.

The law prohibits rape, and although rape occurred, police and the courts investigated and prosecuted cases of rape, which resulted in some convictions during the year. Official and private media regularly covered rape cases handled by the courts during the year. In June a couple of newspapers released special issues on the problem of rape, which was becoming acute, especially in Douala and Yaounde. According to one of the reports, the Douala Courts heard approximately 40 cases per month.

The law does not prohibit female genital mutilation (FGM), and FGM was not practiced widely; however, it continued to be practiced in isolated areas in 3 of the 10 provinces, including some areas of Far North, Eastern, and South West provinces. Internal migration contributed to the spread of FGM to different parts of the country. The majority of FGM procedures were clitorectomies; however, the severest form of FGM, infibulation, was performed in the Kajifu region of the Southwest Province. FGM usually was practiced on infants and pre-adolescent girls. During the year the government did not conduct programs to educate the population about the harmful consequences of FGM or prosecute any persons who allegedly performed FGM; however, the Association of Women Against Violence continued to conduct a program in Maroua to assist victims of FGM and their families and to educate local populations.

While the law prohibits prostitution, it was tolerated. Prostitution was practiced predominately in urban areas by locals, and trafficking for the purposes of commercial sexual exploitation occurred (see Section 5, Trafficking).

During the year a foreign pharmaceutical company conducted a clinical study of a drug intended to prevent the spread of HIV/AIDS among 400 female prostitutes, none of whom had HIV at the beginning of the trial. Local and international NGOs criticized the company and the Ministry of Health for lack of transparency and negligence, asserting that the government and the company did not sufficiently inform the prostitutes of the risks involved with taking part in the trials. According to Doctors without Borders and a UN press agency, there was no provision for free treatment against HIV/AIDS in the protocol agreement governing the trial and its participants, although free condoms and HIV/AIDS testing were provided. Some of the participants said they believed they had been "vaccinated" by the pills they received and could not contract HIV/AIDS, even though 200 prostitutes had been given placebos. At least three prostitutes were infected with HIV after having unprotected sex during the trial. In response to the allegations of misconduct, the Ministry of Health suspended the clinical tests in February, citing "dysfunctions" and saying that "certain corrective measures" needed to be taken by the research team. The minister also set up an independent inquiry, which reported that although allegations about safety made by certain NGOs were not true, new procedures needed to be instituted to ensure more regular reporting and study site accreditation before the trials could resume. By year's end the trial had not resumed.

While the law prohibits sexual harassment, very few cases were reported or prosecuted during the year. The government did not conduct any public education campaigns on the subject and there were no statistics available on its occurrence.

Despite constitutional provisions recognizing women's rights, women did not enjoy the same rights and privileges as men. Some points of civil law were prejudicial to women. The law allows a husband to oppose his wife's right to work in a separate profession if the protest is made in the interest of the household and the family; a husband may also end his wife's commercial activity by notifying the clerk of commerce tribunal of his opposition based upon the family's interest. Partly for this reason, some employers required a husband's permission before hiring female employees.

Customary law was far more discriminatory against women, since in many regions a woman customarily was regarded as the property of her husband. Because of the importance attached to customs and traditions, civil laws protecting women often were not respected. In the customary law of some ethnic groups, husbands not only maintained complete control over family property, but also could divorce their wives in a traditional court without being required to provide either verifiable justification or alimony. Polygyny was permitted by law and tradition. In cases of divorce, the husband's wishes determined the custody of children over the age of six. While a man may be convicted of adultery only if the sexual act takes place in his home, a female may be convicted without respect to venue.

Traditional law normally governed the extent to which a woman may inherit from her husband in the absence of a will, and traditions varied from group to group. In many traditional societies, custom grants greater authority and benefit to male heirs than to female heirs. Women also faced the issue of forced marriage; in some regions, girls' parents could and did give girls away in marriage without the bride's consent. Often the husband, who could be many years older than his bride, paid his wife's parents a "bride price." Since a price had been paid, the girl was considered the property of the husband. When a married man died, his widow often was unable to collect any inheritance, since she herself was considered part of the man's property. Often the widow was forced to marry one of the deceased husband's brothers. If she refused, she had to repay the bride price in full and leave the family compound. In the northern provinces, some Lamibe reportedly prevented their wives and concubines from leaving the palace. The lack of a national legal code covering such family issues often left women defenseless against these male-oriented customs.

In May 2004, religious leaders, including Catholics, Protestants, and Muslims, launched a nationwide program to fight violence against women.

Children.—During the year the government made some efforts to protect children's rights and welfare, including participation in seminars on children's rights. In December the National Assembly passed the Anti-Child Trafficking law, which was signed into law by the president.

The law provides for a child's right to education, and schooling was mandatory through the age of 14. Since parents had to pay uniform and book fees for primary school, and because tuition and other fees for secondary education remained costly, education largely was unaffordable for many children. The government took measures during the year to improve access to schools.

According to statistics from the Ministry of Education, 72.2 percent of girls between the ages of 6 and 14 were enrolled in school, compared with 81.3 percent for boys of the same age group. According to the UN Children's Fund (UNICEF), the secondary school enrollment ratio (gross) was 36 percent for boys and 29 percent for girls. The low education rate continued to be attributed to socio-cultural prejudices, early marriage, sexual harassment, unwanted pregnancy, and domestic chores.

In October 2004 the minister of education and the minister of youth and sports presented the results of a study on the country's education system. The study revealed a large disparity between the number of potential students and the capacity of the schools. According to the report, preschools served only 16 percent of all possible students. Within the entire school system, the northern provinces were the most underprivileged, with only 5.7 percent of all teachers working in the Adamawa, North, and Extreme North provinces combined. The capacity of the schools was also inadequate. The study showed that elementary schools only had enough seats for 1.8 million students, although 2.9 million attended school.

Medical care was provided by the government through local clinics and hospitals and through a limited number of school doctors. Families with enough financial resources had access to a number of private clinics and hospitals.

The exact extent of familial child abuse was not known; however, children's rights organizations targeted the problem. Newspaper reports often cited children as victims of kidnapping, mutilation, and even infanticide. There were several credible stories of mothers (usually young, unemployed, and unmarried) abandoning their newborns in streets, garbage cans, and pit toilets.

FGM was performed primarily on young girls (see section 5, Women).

Despite the law that fixes a minimum age of 15 years for a bride, many families facilitated the marriage of young girls by the age of 12 years. Early marriage was prevalent in the northern provinces of Adamawa and the North, but it was especially characteristic of the remote Far North Province, where many young women faced severe health risks from pregnancies as early as 13 years of age. There were no statistics on the prevalence of child marriage. Anecdotal evidence indicated that

some parents might have promised a female baby to an older male in order to begin receiving dowry payments.

There were reports of child prostitution and trafficking in children during the year (see section 5, Trafficking).

Child labor remained a problem (see section 6.d.).

Although exact numbers were unavailable, the country had a significant number of displaced or street children, most of whom resided in urban areas such as Yaounde and Douala.

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons, but the law does prohibit slavery, prostitution, forced labor, and other crimes related to trafficking in persons and establishes minimum age requirements for workers. Trafficking remained a problem. Courts prosecuted traffickers using various provisions of the Penal Code that address related crimes. The country was a source, transit, and destination point for internationally trafficked persons; trafficking also occurred within the country. The Anti-Child Trafficking law, drafted by the government in cooperation with the International Labor Organization (ILO), went in effect in late December.

The law provides that any person who engages in crimes often associated with trafficking in persons shall be punished by prison terms of between 6 months and 20 years.

The Ministry of Labor, Employment, and Social Insurance was primarily responsible for fighting trafficking; however, the ministry was severely underfunded. It was believed that authorities prosecuted several trafficking cases during the year, but actual rates were difficult to determine since traffickers could be prosecuted under various sections of the penal code, and there was no system for tracking outcomes.

In February a Yaounde court sentenced an individual with the name of Nkodo to 3 years in jail and ordered her to pay damages of \$2 thousand (1 million CFA francs) to her victim, a 19-year-old girl who worked for her as a prostitute.

In May gendarmes in Yaounde dismantled a prostitution ring which used young boys. The boys were lured into the ring by the prospect of being hired by prestigious soccer clubs in a foreign country. Police arrested three of the organization's five members, who were in detention and awaiting trial at year's end; the other two were still in hiding.

On June 20, police arrested three individuals, including a Cameroonian woman and two Gabonese men, in the South Province, close to the Gabonese border. The three individuals were arrested while trying to smuggle two 13-year-old girls, who were kidnapped in the Boyo Division of the North West Province, into Gabon. The three were put under detention, pending trial. During the investigation, South Province police officials said it was the third time that they had arrested traffickers at the country's borders with Gabon and Equatorial Guinea.

There was no information about three individuals who were arrested in 2003 for their involvement in trafficking six children from the town of Obala to Yaounde.

The government continued to fight trafficking through the use of an interagency committee and a program to find and return trafficked children. In addition the government cooperated with Gabon, Nigeria, Togo, and Benin in fighting trafficking through the exchange of information and preparation of common legislation on trafficking. During the year the ILO and some local NGOs briefed parliamentarians on the problem of trafficking in persons.

Women and children traditionally have faced the greatest risk of trafficking and have been trafficked most often for the purposes of sexual exploitation and forced labor. Most trafficking in children occurred within the country's borders, while most trafficked women were transported out of the country. According to anecdotal evidence by the NCHRF, women often were "hired" into hubs of prostitution, often in Europe. The method for trafficking women usually involved a marriage proposition by a foreign businessman. The woman was inducted into servitude upon arrival at a foreign destination. Girls were internally trafficked from the Adamawa, North, Far North, and Northwest provinces to Douala and Yaounde to work as domestic servants, street vendors, or prostitutes. Children were also internally trafficked to work on cocoa bean plantations. There have been credible reports of slavery, especially in some chiefdoms in the North Province (see section 6.c.).

According to a study by the International Circle for the Promotion of Creation and the Cameroon Society for Prevention of Child Abuse and Neglect, of 722 young girls between 9 and 20 years old interviewed in the cities of Yaounde, Douala, Bamenda, and Bafoussam, 291 were the victims of sexual exploitation.

Unlike in the previous year, there were no reports of radio advertisements offering to take adolescent girls between the ages of 10 and 17 to Yaounde and Douala for domestic labor; however, there continued to be flyer advertisements.

A 2000 ILO study conducted in Yaounde, Douala, and Bamenda, reported that trafficking accounted for 84 percent of child laborers in those three cities. During the year local NGOs said they believed that this statistic was still accurate. In most cases, intermediaries presented themselves as businessmen, approaching parents with large families or custodians of orphans and promising to assist the child with education or professional training. The intermediary paid parents an average of \$12 (6 thousand CFA francs) before transporting the child to a city where the intermediary would subject the child to forced labor with little remuneration. In 4 out of 10 cases, the child was a foreigner transported to the country for labor. The report also indicated that the country was a transit country for regional traffickers, who transported children between Nigeria, Benin, Niger, Chad, Togo, the Republic of the Congo, and the CAR for indentured or domestic servitude, farm labor, and sexual exploitation. Citizens also were trafficked to South Africa.

The Institute for Socio-Anthropologic Research of the Yaounde-based Catholic University of Central Africa continued an ILO-sponsored Exploratory Study on Child Trafficking during the year.

During the year the ILO and the government continued to support an awareness campaign to eradicate child trafficking in airports. Special antitrafficking embarkation/disembarkation cards continued to be designed and distributed. The cards described the dangers of trafficking and how to recognize the phenomenon.

The government continued to work with local and international NGOs to provide temporary shelter and assistance to victims of trafficking. In August, a local NGO graduated 70 trafficking victims from its rehabilitation and reintegration program. The Catholic Relief Service worked to combat corruption in local schools that led to child prostitution. UNICEF was also actively engaged in combating girls' prostitution throughout the year.

Persons with Disabilities.—The law provides certain rights to persons with disabilities, including access to public institutions, medical treatment, and education, and the government was obliged to bear part of the educational expense of persons with disabilities, to employ them where possible, and to provide them with public assistance when necessary; however, the government rarely honored these obligations. There were few facilities for persons with disabilities and little public assistance; lack of facilities and care for persons with mental disabilities particularly was acute. Society largely tended to treat those with disabilities as outcasts, and many felt that providing assistance was the responsibility of churches or foreign NGOs. The law does not mandate special access provisions to private buildings and facilities for persons with disabilities.

National/Racial/Ethnic Minorities.—The population consists of more than 200 ethnic groups, among which there were frequent and credible allegations of discrimination. Ethnic groups commonly gave preferential treatment to fellow ethnic group members both in business and social practices.

Members of President Biya's Beti/Bulu ethnic group from southern parts of the country held key positions and were disproportionately represented in government, civil service, state-owned businesses, the security forces, and the ruling CPDM party.

The M'Bororo, a group of semi-nomadic Fulani cattle raisers were given rights over pastoral land in the North West Province by the British colonial government; however, in 1986 Alhadji Baba Ahmadou Danpullo, a prominent businessman and member of the ruling party, established a commercial ranch on this land. For the last 19 years the M'Bororo have claimed that Danpullo has forcibly displaced them; seized their land, cattle, and women; and used his money and influence with the government to order the beating and false imprisonment of members of the M'Bororo. A special government commission of inquiry finished hearing testimony on the Danpullo-M'Bororo dispute and sent its report to the Ministry of Justice early in the year. No further information was available on the status of the case at year's end.

Northern areas of the country continued to suffer from ethnic tensions between the Fulani (or Peuhl) and the Kirdi. The Kirdi remained socially, educationally, and economically disadvantaged relative to the Fulani in the three northern provinces. Traditional Fulani rulers, called Lamibe, continued to wield great power over their subjects, often including Kirdi, sometimes subjecting them to tithing and forced labor. During the year isolated cases of slavery were reported, largely Fulani enslavement of Kirdi.

Natives of the North West and South West provinces tended to support the opposition party SDF and suffered disproportionately from human rights violations committed by the government and its security forces. The Anglophone community was underrepresented in the public sector. Although citizens in certain Francophone

areas—the Far North, North and Adamawa provinces—voiced similar complaints about under-representation and neglect of government provision of services. Anglophones said they generally believed that they had not received a fair share of public sector goods and services within their two provinces. Some residents of the Anglophone region sought greater freedom, equality of opportunity, and better government by regaining regional autonomy rather than through national political reform and have formed several quasi-political organizations in pursuit of their goals.

At least one Anglophone group, the SCNC, advocates secession from the country. During the year security forces harassed and arrested the participants of SCNC meetings (see sections 1.d., 2.a., and 2.b.). The government also continued to hold some SCNC activists in temporary detention, pending their trials. The opposition SDF party, whose base of support resides in the Anglophone provinces, reiterated its commitment to pursue a nonviolent political struggle toward the restoration of a federal republic.

Some members of the country's large community of Nigerian immigrants complained of discrimination and abuse by government officials (see section 1.c.). Government officials repeatedly announced crackdowns on undocumented Nigerian immigrants, and illegal immigrants were subject to harassment on some occasions.

Indigenous People.—A population of approximately 50 thousand to 100 thousand Baka (Pygmies), a term that encompasses several different ethnic groups, primarily resides (and were the earliest known inhabitants) in the forested areas of the South and East provinces. While no legal discrimination exists, other groups often treated the Baka as inferior and sometimes subjected them to unfair and exploitative labor practices. Baka reportedly continued to complain that the forests they inhabit were being logged without fair compensation. Some observers believe that sustained logging was destroying the Baka's unique, forest-oriented belief system, forcing them to adapt their traditional social and economic systems to a more rigid modern society similar to their Bantu neighbors. Local Baka along the path of the Chad-Cameroon pipeline continued to complain that they were not compensated fairly for their land. Others alleged that they had been cheated of their compensation by persons posing as Baka representatives.

An estimated 95 percent of Baka did not have national identity cards; most Baka could not afford to provide the necessary documentation to obtain national identity cards, which were required to vote in national elections. In May 2004 Plan International and another NGO launched a program to educate Bakas about their political rights, which included the construction of a communal radio in the region of Abong-Mbang (Upper Nyong Division, East Province). In July 2004 the Association of Boumba and Ngoko Divisional Councils conducted a campaign through which they were able to issue hundreds of identification cards to Bakas in the East Province, thereby allowing these individuals to register and vote.

In August the Ministry of Social Affairs launched the Project to Support the Economic and Social Development of Bakas in South Province. The mission of the 3-year project was to allow the issuance of birth certificates and national identity cards to 2,300 Bakas, as well as to help register hundreds of students in school.

Other Societal Abuses and Discrimination.—Homosexuality is illegal, with a possible prison sentence of between 6 months and 5 years and a possible fine ranging from approximately \$40 to \$400 (20 thousand to 200 thousand CFA francs). While prosecution under this law was rare, homosexuals suffered from harassment and extortion by law enforcement officials.

On May 22, gendarmes of the Nlongkak brigade in Yaounde arrested 17 suspected homosexuals; 5 of them were released shortly after their arrest for lack of evidence. According to the prosecutor, in June the remaining 12 were formally charged and put under detention at the Yaounde Kondengui Prison, pending their trial. According to the International Gay and Lesbian Human Rights Commission the government ordered a "medical examination" to determine whether the men had engaged in homosexual conduct. There was no additional information on this case at year's end.

During the year there were organizations that advocated for the rights of homosexuals.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join trade unions; however, the government imposed numerous restrictions. The law does not permit the creation of a union that includes both public and private sector workers, or the creation of a union that includes different, even closely related sectors.

The law requires that unions register with the government, permitting groups of no less than 20 workers to organize a union by submitting a constitution, internal regulations, and nonconviction certifications for each founding member. The law

provides for prison sentences and fines for workers who form a union and carry out union activities without registration. Government officials said that it remits certification within one month of union application; however, in practice, independent unions, especially in the public sector, have found it difficult to register.

Registered unions were subject to government interference. The government chose the unions with which it would bargain; some independent unions accused the government of creating small nonrepresentative unions amenable to government positions and with which it could “negotiate” more easily. Some sections of labor law have no force or effect because the presidency had not issued implementing decrees.

In January and February the Ministry of Labor, with the assistance of experts from the ILO, held discussions with all trade unions in an effort to put in place a system for tracking and recognizing unions that would meet international criteria on the subject. The initial focus of this effort was on determining the actual, paid membership of each union to determine the size and importance of each group.

During the year the government restricted the civil rights of union leaders. For example on August 29, police arrested and detained for one hour Alain Marcellin Mibo, the leader of the Primary Education Teachers Association. For several weeks Mibo and his colleagues had been holding sit-ins in front of the prime minister’s office to demand that they be given full-time civil servant status, instead of the part-time or temporary status they were employed under. There were no new developments in the 2003 arrest of railroad union president Benoit Essiga and his six colleagues.

The law prohibits antiunion discrimination, and employers guilty of such discrimination were subject to fines up to approximately two thousand dollars (one million CFA francs). However, employers found guilty were not required to compensate the workers against whom they discriminated or to reinstate fired workers. The Ministry of Labor did not report any complaints of such discrimination during the year, although there were credible press reports of union leader harassment.

b. The Right to Organize and Bargain Collectively.—The law provides for collective bargaining between workers and management as well as between labor federations and business associations in each sector of the economy. Two formal collective bargaining negotiations took place during the year, one in the electricity sector and another in the media. While the negotiation was successful in the electricity sector, negotiations were ongoing in the media sector at year’s end. There were no export processing zones.

When labor disputes arose, the government chose the labor union with which it would negotiate, selectively excluding some labor representatives. Once agreements were negotiated, there was no mechanism to enforce implementation; some agreements between the government and labor unions were then ignored by the government.

On March 4, the minister of labor and social security presided at the signing of the collective bargaining agreement between the management of AES-Sonel, the privatized national electricity corporation, and its employees’ unions. The previous agreement was 35 years old. On May 11, however, the Confederation of Free Cameroon Trade Unions denounced the agreement, claiming it infringed upon many of the rights of the company’s workers. The union filed a request for annulment of the agreement with a Douala court, where the case was still pending at year’s end.

On July 7, the minister of labor and social security appointed a joint commission—consisting of public and private media managers, private and public journalists, and other media workers—tasked with drafting a collective bargaining agreement for the media; however, by year’s end an agreement had not yet been reached.

The Labor Code explicitly recognizes workers’ right to strike but only after mandatory arbitration, and workers exercised this right during the year. Arbitration decisions were not enforceable by law and could be overturned or simply ignored by the government or employers. The provision of the law allowing persons to strike does not apply to civil servants, employees of the penitentiary system, or workers responsible for national security. Instead of strikes, civil servants were required to negotiate grievances directly with the minister of the appropriate department in addition to the minister of labor.

At year’s end no decision had been made on whether to provide severance dues to workers of the National Agency for Support to Forestry Development; the government terminated the contracts of all the company’s workers in May 2004, following a strike regarding payment of salary arrears. The company also had not decided which workers, if any, would be rehired.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred. Authorities

continued to allow prison inmates to be contracted out to private employers or used as communal labor for municipal public works.

The ILO confirmed that there was an increase during the year in serious trafficking issues, and slavery situations have been identified in the northern provinces (see section 5). NGOs and religious associations reported that children were kidnapped, sold, or “lent” by their parents to individuals claiming to look after their interests and sent to Yaounde or Douala to work in child beggar networks and, in some cases, prostitution rings. Some children were sent to neighboring countries to work. These victims were generally of both sexes and between the ages of 6 and 14 years old.

In the South and East provinces, some Baka, including children, continued to be subjected to unfair and exploitative labor practices by landowners and worked on the landowners’ farms during harvest seasons without payment (see section 5).

The government does not expressly prohibit forced and compulsory labor by children, and there were reports that these practices occurred (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law generally protects children from exploitation in the workplace and specifies penalties ranging from fines to imprisonment for infringement; however, child labor remained a problem. The government does not specifically prohibit forced and compulsory labor by children, and there were reports that it occurred in practice.

The law sets a minimum age of 14 for child employment, which is inconsistent with the age for completing educational requirements (see section 5). The law also bans night work and enumerates tasks that children under the age of 18 cannot legally perform. These tasks included moving heavy objects, dangerous and unhealthy tasks, working in confined areas, and prostitution. The law also states that a child’s workday cannot exceed 8 hours. Employers were required to train children between the ages of 14 and 18, and work contracts must contain a training provision for minors. The prohibition against night work was not enforced effectively.

Information on child labor was difficult to obtain; however, according to a 2000 study by the ILO and Ministry of Labor, child labor existed chiefly in urban areas and in the informal sector such as street vending, car washing, agricultural work, and domestic service. Many urban street vendors were less than 14 years of age. An increasing number of children worked as household help, and some children were involved in prostitution. In the north, there were credible reports that children from needy homes were placed with other families to do household work for pay. In the nation’s major cities of Yaounde, Douala, and Bamenda, the ILO estimated that 40 percent of employed children were girls, of whom 7 percent were less than 12 years of age, and 60 percent had dropped out of primary school.

Parents viewed child labor as both a tradition and a rite of passage. Relatives often employed rural youth, especially girls, as domestic helpers, and these jobs seldom allowed time for the children to attend school. In rural areas, many children began work at an early age on family farms. The cocoa industry also employed child laborers. According to estimates, up to 9 thousand under-aged children (between the ages of 5 and 17) were working in the cocoa industry at year’s end. These children originated, for the most part, from the Northern and North Western provinces.

In March the ILO presented the preliminary draft of the ILO/West Africa Cocoa/Agriculture Program to eliminate child labor. The program was started in the country in 2003, and was scheduled to end in April 2006. The program met its goal by removing 1,109 children from hazardous work and forced labor conditions in the cocoa sector by December.

The Ministry of Social Affairs and the Ministry of Labor were responsible for enforcing existing child labor laws through site inspections of registered businesses; however, the government did not allocate sufficient resources to support an effective inspection program. Moreover, the legal prohibitions do not include family chores, which in many instances were beyond a child’s capacity. During the year the government employed 58 general labor inspectors to investigate child labor cases.

On June 12, the government, the ILO, and other partners organized numerous activities to mark the World Day against Child Labor, which specifically highlighted children in the mining sector.

The ILO continued to work with specific contact persons in various ministries and agencies involved in antitrafficking activities; it also conducted nationwide investigations and cooperated with local organizations.

e. Acceptable Conditions of Work.—The minimum wage was approximately \$47 (23,514 CFA francs) per month and was applicable in all sectors. The minimum wage did not provide for a decent standard of living for an average worker and family. The Ministry of Labor was responsible for enforcing the minimum wage nationally,

The law establishes a standard workweek of 40 hours in public and private non-agricultural firms and 48 hours in agricultural and related activities. There are exceptions for guards and firemen (56 hours a week), service sector staff (45 hours a week), and household and restaurant staff (54 hours a week.) The law mandates at least 24 consecutive hours of weekly rest. Premium pay for overtime ranged from 120 to 150 percent of the hourly pay depending on amount and whether it was for weekend or late-night overtime. There is a prohibition on excessive compulsory service. The Ministry of Labor inspectors were responsible for monitoring these standards; however, they lacked the resources for a comprehensive inspection program.

The government sets health and safety standards. Ministry of Labor inspectors and occupational health physicians were responsible for monitoring these standards; however, they lacked the resources for a comprehensive inspection program. The law does not provide workers with the right to remove themselves from situations that endangered health or safety without jeopardizing their continued employment.

CAPE VERDE

Cape Verde, with a population of approximately 460 thousand, is a multiparty parliamentary democracy in which constitutional powers are shared among the elected head of state, President Pedro Verona Rodrigues Pires and Prime Minister Jose Maria Neves. Pires was elected in 2001 in generally free and fair elections. Nationwide municipal elections held in March also were considered to be generally free and fair. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- police abuse of detainees and military officer abuse of subordinates
- poor prison conditions
- lengthy pretrial detention
- excessive trial delays
- media self-censorship
- violence and discrimination against women
- abuse of children
- child prostitution
- child labor

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 that the government or its agents committed arbitrary or unlawful killings.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were credible reports that police continued to beat persons in custody and in detention and that military officers abused military personnel. For example, on October 23, a corporal was struck 25 times with a baton as punishment ordered by his company commander. His family filed a criminal suit against the army. The case was pending at year's end.

Prison and Detention Center Conditions.—Prison conditions were poor, and facilities were severely overcrowded. Sanitation and medical assistance were poor; however, a doctor and a nurse were available, and prisoners were taken to the public hospitals for serious medical problems. Psychological problems among prisoners were common.

On December 25, a riot broke out at the Sao Martinho prison, the main prison on the island of Santiago. One prisoner was killed and three other persons, including one guard, were injured. The cause of the riot was reported to be the fact the prisoners were upset with a change in the Christmas visit schedule. The Judiciary Police was investigating the case.

Juveniles were not held separately from adults, and pretrial detainees were not held separately from convicted prisoners.

The government permitted both formal visits by international human rights monitors to prisons and visits to individual prisoners; however, there were no such visits

during the year. Local nongovernmental organizations (NGOs) and media representatives frequently visited the prisons and reported on prison conditions.

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

Role of the Police and Security Apparatus.—The police force is organized nationally under the Ministry of Justice and is made up of the public order police who are responsible for law enforcement and the judicial police who are responsible for investigations. Corruption was not a significant problem. Impunity was a problem. Police abuses are investigated internally; however, these investigations did not result in any legal action against the perpetrators. Logistical constraints, including lack of vehicles, limited communications equipment, and poor forensic capacity, limited police effectiveness. During the year the government trained police to address more effectively issues related to illegal emigration and immigration, drug trafficking, and terrorism.

Arrest and Detention.—Police may not make arrests without a warrant issued by a duly authorized official, unless a person is caught in the act of committing a felony. The law stipulates that a suspect must be brought before a judge within 48 hours of arrest. The law provides a person in detention with the right to a prompt judicial determination of the legality of the detention, and the authorities respected this right in practice. The detainee's attorney informed him of the charges. There was a functioning bail system, and it was used in practice. Detainees were allowed prompt access to a lawyer of their choice and, if indigent, to one provided by the government. Detainees were also allowed prompt access to family members.

There were no reports of political detainees.

Lengthy pretrial detention was a serious problem, and detainees often remained in jail without charge for more than a year. The dropping of charges without a court judgment was a frequent means for terminating criminal cases.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice; however, the judiciary was understaffed and inefficient.

The judicial system is composed of the Supreme Court and the regional courts. Of the five supreme court judges, one is appointed by the president, one by the national assembly, and three by the superior judiciary council. Judges were independent and could not belong to a political party. Regional courts adjudicate minor disputes on the local level in rural areas. The civilian courts had jurisdiction over state security cases. There are penal courts to handle criminal cases, including violations of the electoral laws, civil courts to handle civil and commercial suits, and one military court. The Supreme Court is the highest appellate court, and also handles administrative cases. The military court cannot try civilians.

Trial Procedures.—The law provides for the right to a fair and public nonjury trial. Defendants have the right to be present and to consult with an attorney in a timely manner; free counsel is provided for the indigent. Defendants have the right confront or question witnesses against them and to present witnesses. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants are presumed to be innocent and can appeal regional court decisions to the Supreme Court.

The judiciary generally provided due process; however, the right to an expeditious trial was constrained by a seriously overburdened and understaffed judicial system. A backlog of cases routinely led to trial delays of six months or more; more than 12,055 cases were pending at the end of 2003.

Political Prisoners.—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. There continued to be reports of media self-censorship.

There were three independent newspapers and one state-owned newspaper; six independent radio stations and one state-owned radio station; and one state-owned television station and two foreign-owned stations. Foreign broadcasts were permitted. Journalists were independent of government control and were not required to reveal their sources; however, journalists, particularly those associated with the government-controlled media practiced self-censorship.

The law requires a formal licensing mechanism for mass media, including government authorization to broadcast; however, there were no reports that licenses were denied or revoked or that the government refused to authorize broadcasts during the year.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

The Catholic majority enjoyed a privileged status in national life. For example, the government provided the Catholic Church with free television broadcast time for religious services and observed its holy days as official holidays.

To be recognized as legal entities by the government, religious groups must register with the Ministry of Justice; however, failure to do so did not result in any restriction on religious practice.

Societal Abuses and Discrimination.—There were no reports of anti-Semitic acts during the year. There is no known Jewish community in the country.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

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

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against refoulement, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 protocol.

The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

The 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.

Elections and Political Participation.—The National Electoral Commission and the international media judged the 2000 legislative elections, the 2001 presidential elections, and the March nationwide municipal elections to be free and fair.

There were 11 women in the 72-seat National Assembly and 4 women in the 17-member cabinet.

There were no members of minorities in the government.

Government Corruption and Transparency.—There were no reports of government corruption during the year.

The law provides for freedom of access to governmental information without restriction, provided that privacy rights are respected; however, there were no requests for such information during the year.

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

A number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

There were three private human rights groups: the National Commission of the Rights of Man, the Ze Moniz Association, and the Alcides Barros Association.

The powers of the independent ombudsman, who serves a five-year term, were defined in 2003; however, no ombudsman had been elected by year's end.

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

The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, the government did not enforce these provisions

effectively, and violence and discrimination against women and abuse of children were serious problems.

Women.—Domestic violence against women, including wife beating, was widespread. The government and civil society encouraged women to report criminal offenses such as spousal abuse and rape, which is punishable by 2 to 13 years' imprisonment; however, longstanding social and cultural values inhibited victims from doing so. While there were mechanisms to deal with spousal abuse, in practice, these mechanisms neither ensured the punishment of all those responsible nor effectively prevented future violence. Nevertheless, reporting of such crimes to police continued to increase during the year, and violence against women was the subject of extensive public service media coverage in both government- and opposition-controlled media.

Women's organizations, like the Women Jurists' Association, continued to seek legislation to establish a special family court to address crimes of domestic violence and abuse; however, there was no such legislation by year's end. The law protects certain rights of the victims of sexual, mental, and verbal abuse; however, it did not ensure compensation.

Rape, including spousal rape, is a criminal offense, and the government generally did not effectively enforce the law. The penalties for rape were 2 to 13 years' imprisonment.

Prostitution is legal.

Sexual harassment is illegal, but the government did not effectively enforce the law. Sexual harassment was very common, but culturally not perceived as a crime.

Under the law, women enjoy the same rights as men, including rights under family law, property law, and in the judicial system; however, women often were reluctant to seek redress of domestic disputes in the courts, and there was discriminatory treatment in inheritance matters. For example, some women were pressured to sign judicial agreements detrimental to their statutory inheritance rights.

Despite legal prohibitions against sex discrimination and provisions for full equality, including equal pay for equal work, discrimination against women continued. Although they often were paid less than men for comparable work, women were making inroads in various professions, especially in the private sector.

The Women Jurists' Association provided free legal assistance to women throughout the country suffering from discrimination, violence, and spousal abuse.

Children.—The government was committed to children's rights and welfare. The government provided free and universal education for all children aged 6 to 12. Education was compulsory until age 11; however, secondary education was free only for children whose families had an annual income below approximately \$1,951 (160,000 Cape Verdean escudos). According to UNICEF, primary school attendance from 1996 to 2003 was approximately 98 percent. Attendance rates by boys and girls differed by less than 1 percent.

The government provided free primary health care for children, and boys and girls had equal access.

Child abuse and mistreatment, sexual violence against children, and child prostitution were serious problems. The media reported cases of sexual abuse against children and adolescents. The inefficiencies of the judicial system made it difficult for government institutions to address the problem.

Trafficking in children occurred (see section 5, Trafficking).

Trafficking in Persons.—The law prohibits trafficking in minors, but not adults; however, there were reports that persons were trafficked to and from the country. Sentences for trafficking in children ranged from 2 to 13 years' imprisonment. There were no prosecutions during the year. The Police of Public Order are responsible for combating trafficking. The government did assist the Spanish government with international investigation of the case described below. The government did not extradite citizens accused who were accused of trafficking in other countries.

In January Spanish authorities arrested eight Cape Verdean women who were being investigated at year's end for their involvement in an apparent trafficking ring involving 179 children; all 179 children were returned to the country. According to Spanish authorities, the victims were destined for "prostitution, illegal adoptions, or cheap labor." There were allegations of malfeasance and involvement in this case by government officials in the country's embassy in Senegal. The case was under investigation at year's end.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced these provisions. The government did not require access for persons with disabilities to public buildings. Several NGOs, including an association for the blind, were active.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and to join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. Approximately 22 percent of workers were unionized.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for the right of workers to bargain collectively; however, there has been very little collective bargaining, and there were no signed collective bargaining agreements during the year. Workers and management in the small private sector, as well as in the public sector, normally reached an agreement through negotiations. Although there were no collective labor contracts, workers succeeded in negotiating important issues such as salary increases; however, as the country's largest employer, the government continued to play the dominant role in setting wages. It did not fix wages for the private sector, but salary levels for civil servants provided the basis for wage negotiations in the private sector.

The law provides union members with the right to strike, but the government at times limited this right. When workers attempted to strike, the government invoked a "civil request" under which it had the power, in an emergency or if a strike threatened coverage of basic needs, to name a list of minimum services that a union must continue to provide during any strike. The government continued to request workers to curtail strikes and to interpret essential services in the broadest terms. The government took measures during the year to amend its legislation so that if parties disagreed on the minimum services to be provided during strikes, an independent body could resolve the dispute; however, the government had not created an independent body to resolve such differences by year's end.

There are no special laws or exemptions from regular labor laws in the one export processing zone, which encompasses the whole country.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, but there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—There are laws and policies to protect children from exploitation in the workplace, but the government did not effectively implement them in practice. The law prohibits children under the age of 16 from working at night, more than seven hours per day, or in establishments where toxic products were produced; however, the government rarely enforced the law, and child labor was a problem. The legal minimum age for employment was 16 years, which was inconsistent with the age for completing educational requirements (see section 5). The ministries of justice and labor were responsible for enforcing child labor laws; however, such laws were seldom enforced.

e. Acceptable Conditions of Work.—There were no established minimum wage rates in the private sector. Large urban private employers linked their minimum wages to those paid to civil servants. For an entry-level worker, this wage was approximately \$146 (12,000 Cape Verdean escudos) per month. The majority of jobs paid wages that did not provide a worker and family with a decent standard of living; most workers relied on second jobs and extended family support.

The law provides for a maximum workweek for adults of 44 hours, prohibits excessive compulsory overtime, and requires that a premium be paid for work above the standard workweek. There is a required rest period of 12 consecutive hours per week. While large employers generally respected these regulations, many domestic servants and agricultural laborers worked longer hours.

The director general of labor conducted sporadic inspections to enforce the labor code and imposed fines on private enterprises that were not in conformity with the law; however, the government did not enforce labor laws systematically, and much of the labor force did not enjoy their protection.

The government has not set occupational health and safety standards; however, there is a general provision in the law that requires employers to provide a healthy and safe work environment. Few industries employed heavy or dangerous equipment. The law does provide workers with the right to remove themselves from situations that endangered health or safety without jeopardizing their continued employment.

CENTRAL AFRICAN REPUBLIC ¹

The Central African Republic (CAR) is a constitutional republic whose population of approximately 3.9 million is governed by a strong executive branch and weak legislative and judicial branches. In March and May, the country held two rounds of multiparty presidential and legislative elections that ended two years of transitional rule by General Francois Bozize, who seized power in a 2003 military coup and declared himself president. The voting resulted in the election of Bozize, the country's former armed forces chief of staff, as president. National and international observers judged the elections to be generally free and fair and representative of the people's will, despite irregularities and accusations of fraud by candidates running against Bozize. The National Convergence Movement ("Kwa Na Kwa")—a grouping of smaller parties, military officials, and political leaders supporting Bozize—won the largest number of seats in the National Assembly. During the year lawlessness persisted in large swaths of the country, particularly in the north and northwest; the government and citizens were significantly affected by insecurity and the threat of conflict. The government and multinational regional forces deployed soldiers to fight banditry in northern areas of the country. Civilian authorities did not maintain effective control of security forces.

The government's human rights record remained poor; although the government's respect for human rights improved overall, serious problems remained in several areas. Compared with the country's human rights situation in 2004, political rights and press freedom increased significantly during the year, while freedom of movement deteriorated markedly because of actions by security forces and unidentified armed groups. There was an increase in arbitrary arrest and detention, particularly around the time of national elections. Several developments during the year adversely influenced the human rights situation, including the growth of salary arrears owed to government workers (which contributed to corruption) and an increase in attacks by unidentified armed groups, which resulted in the disruption of agricultural production and exodus of approximately 15 thousand refugees from the north and west, where the government did not exercise authority. Severe flooding in August displaced thousands of families, and an increase in the HIV/AIDS prevalence rate led many individuals to blame HIV/AIDS-related deaths of family members on witchcraft and to commit violations—including killings—against persons accused of casting deadly spells. In addition acute malnutrition reportedly reached 14 percent in some areas of the country, and the UN Development Program estimated that 95 percent of the population lived on less than \$1 (546 CFA francs) a day, up from 67 percent in 2000. During the year the following human rights problems were reported:

- extrajudicial killings by security forces, particularly the Central Office for the Repression of Banditry (OCRB)
- kidnappings by armed groups
- torture, beatings, rape, and other abuses of suspects and prisoners by security forces
- impunity
- harsh prison and life-threatening detention center conditions
- arbitrary arrest and detention, political detainees, and prolonged pretrial detention
- denial of a fair trial and judicial corruption
- occasional restrictions on freedom of the press and assembly
- restrictions on freedom of movement
- government corruption and lack of access to information
- societal violence, including female genital mutilation (FGM), and discrimination against women
- societal discrimination against indigenous people (Pygmies)
- restrictions on workers' rights
- child labor and forced labor, including forced child labor

In addition to holding elections that observers judged to be generally free and fair, the government took significant steps to improve human rights during the year. In

¹The American embassy in Bangui resumed operations in January after temporarily suspending them in November 2002 in response to security concerns following the start of a military coup.

January the government began implementing a new constitution passed by referendum in December 2004, as well as a new, almost completely decriminalized press law providing for greater press freedom. The minister of justice launched a zero-tolerance policy against corruption, resulting in the suspension of four judges in July. The government also suspended three ministers accused of engaging in corruption. In addition, following an investigation ordered by the president, the government initiated disciplinary procedures to deal with approximately 1,700 fraudulent or “ghost” workers in the civil service who had been illegally collecting government paychecks.

Unidentified armed groups—thought to be common criminals and remnants of insurgency groups from previous conflicts, including former pro-Bozize combatants from Chad—continued to attack, rob, beat, and rape civilians and loot and burn villages in the north and west.

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 that the government or its agents committed politically motivated killings; however, security forces continued to commit executions and other extrajudicial killings with impunity throughout the year.

On a monthly basis during the year, the OCRB, a special antibanditry police squad, continued to arbitrarily execute suspected bandits without respecting the basic due process rights of the accused and was responsible for other extrajudicial killings and deaths resulting from torture. The OCRB, which normally operated only in and around Bangui, committed such abuses with tacit government support and popular approval, partly because the OCRB’s actions were seen as an effective means of reducing crime.

The OCRB often apprehended suspected armed robbers, bandits, and thieves after conducting informal, undocumented investigations; transported them to Cattin, a town three miles southwest of Bangui; shot and killed them; and then used open-air jeeps to drive the dead bodies through town in broad daylight (to exhibit the dead as a deterrent to crime) before depositing the bodies at a morgue. The director of the OCRB, however, claimed he was not aware of any extrajudicial executions. The minister of the interior, who oversees the OCRB, and the minister of justice said that, while the OCRB killed suspects during the year, he believed that these killings occurred only after OCRB members were shot at by suspects attempting to evade apprehension.

On March 17, members of the OCRB arrested Yacoub Ibrahim in the Bangui neighborhood of Kilometre 5 for unknown reasons. OCRB members beat and killed him, and his family later recovered his body. No other details were available at year’s end.

The government did not prosecute OCRB members responsible for killings or other abuses committed during the year. The minister of justice said that most parents of suspected criminals killed by the OCRB did not file complaints with the judicial system because of the social stigma associated with being related to accused criminals. The public prosecutor of the republic and UN officials, however, said they believed that many victims’ families did not file complaints against the OCRB because of fear of retribution and the widespread belief that the OCRB enjoyed almost total impunity.

The head of the High Commission of Human Rights and Good Governance, situated in the office of the president, said that the OCRB continued to commit extrajudicial killings during the year because they were effective in deterring violent crime and were supported by the general public because there was a lack of confidence in the judicial system’s ability to punish criminals. He said he believed the OCRB had never killed an innocent person.

The presidential security forces also arbitrarily executed citizens during the year. In September a severely wounded and dying man was found in a bag in Bangui. Before dying, the victim reportedly said that Lieutenant Celestine Dogo and members of the presidential security forces were responsible for his injuries. No additional information was available by year’s end.

During the year there were developments in a high-profile case involving the alleged abduction, torture, and killing of two men in September 2004 by then Lieutenant Dogo, the head of the presidential security forces at the time. Although President Bozize officially dismissed Dogo from the security forces in September 2004, following his arrest for suspected involvement in the killing, Dogo was released from detention at a military installation without explanation and remained free during the year, during which he reportedly threatened the life of the brother of one of the

victims of the September 2004 killings. There were numerous credible reports during the year that Dogo continued to serve in the security forces despite his official dismissal and that he continued to commit violations against civilians; the government, however, denied these reports. The public prosecutor of the republic acknowledged the appearance of favoritism created by Dogo's release and said he was conducting a criminal investigation of Dogo. Six other members of the presidential security forces who were accused and arrested with Dogo remained in prison at year's end.

During the year there were credible reports that security forces committed other unlawful killings, some allegedly in connection with personal disputes or rivalries.

The government arrested some members of the military who allegedly killed persons during the year. By year's end government records from the second of two sessions held by the Permanent Military Tribunal during the year were unavailable; however, records from the first session indicated that the tribunal had heard a total of seven cases involving nine members of the military accused of committing killings. From those 7 cases, the tribunal convicted 5 individuals, including a sergeant, and sentences ranged from 5 to 20 years in prison. The tribunal acquitted one individual. One case involving three persons was deferred and still under investigation as of August.

By year's end no action had been taken against the members of security forces allegedly responsible for killing eight Chadian combatants in April 2004. There were no developments in the following killings in 2003, reportedly by security forces: the August killing of a student, the September killing of retired Gendarmerie Captain Joseph Koyanao, the September killing of a Nigerian trader, or the December executions of three boys in Haute Kotto.

During the year unidentified armed groups attacked and sometimes killed civilians during village raids and acts of highway banditry. For example armed groups attacked and reportedly killed several civilians in the Basse-Kotto prefecture prefecture town of Kolo in March and in three Ouham prefecture towns—Kadjema, Zere, and Bobo—between July 18 and August 12. Although information about these armed groups was difficult to obtain, aid workers and UN officials said they believed the armed groups were a mix of common criminals and remnants of insurgent groups from recurring conflicts in the region. Some human rights observers said they believed that many of the armed groups were comprised of the same rebels and mercenaries, including Chadian ex-combatants, who helped Bozize seize power in the 2003 coup; these observers said that because Bozize had been unable to pay the ex-combatants what they considered a proper compensation after he seized power, the ex-combatants were collecting payments from civilians by force.

Civilians continued to take vigilante action against presumed thieves, poachers, and some persons believed to be Chadian combatants.

Mobs reportedly continued to kill and injure suspected sorcerers or witches during the year. For example in June seven residents of Bangui's Miskine suburb killed a woman they accused of being a witch. No additional information was available at year's end.

No action was taken against vigilantes responsible for killings committed in 2004.

b. Disappearance.—There were no reports of politically motivated disappearances during the year. The government did not conduct investigations into the reported disappearances that occurred in 2003.

During the year unidentified armed groups conducted kidnappings of M'bororo children for ransom (see section 5).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the Penal Code prohibits torture and specifies sanctions for those found guilty of physical abuse, police, including the OCB, continued to torture, beat, and otherwise abuse criminal suspects, detainees, and prisoners. According to local human rights groups such as the Association Against Torture and the Central African Human Rights League (LCDH), prisons employed torture less frequently than in the previous year, although the OCB reportedly tortured suspects more frequently. The government did not take effective action to punish police who tortured suspects, and impunity remained a problem. Family members of victims and human rights groups, including the LCDH, pursued court complaints filed since 2003 with the prosecutor regarding the deaths of several prisoners due to police abuse; however, authorities did not take action on any of the cases by year's end. The LCDH reported the abuse of civilians by the presidential security forces and filed court complaints of police abuse.

Police most commonly employed a form of torture known as *le cafe*, the repeated beating of the sole of an individual's feet with a baton or stick. Immediately after administering *le cafe*, police would sometimes force the individual to walk on badly

bruised feet, and if the individual was unable to do so, police would beat the individual.

On January 28 former Lieutenant Dogo, accompanied by security forces members, severely beat Rufin Louango, an employee of a foreign embassy, in Bangui. The beating, which took place before several witnesses, was reportedly connected to a personal dispute and caused extensive injuries to Louango. No action was taken against Dogo by year's end.

On March 28, former Lieutenant Dogo, presidential security forces member Lieutenant Olivier Koudemon (alias Gbangouma), and a member of the armed forces named Aziz severely beat three young individuals—Charlemagne Zamelo and Gauthier and Serge Langandji—in Bangui, following an arbitrary nighttime search of their home that uncovered nothing illegal.

On June 21, Lieutenant Anatole of the presidential security forces stopped and severely beat taxi driver Ndaye Armand in the Bangui neighborhood of Kilometre 5 after Armand did not yield to him in traffic. No additional information was available at year's end.

In a high-profile incident on October 4, police arrested and beat Jean-Michel Mandaba, deputy secretary of former president Patasse's Central African People's Liberation Movement (MLPC), and Joseph-Tchendo, president of the country's media regulatory body, in Bangui. Police reportedly arrested the two men for holding a political meeting with the goal of destabilizing the government; they were released after several hours of detention, and at year's end an investigation was ongoing. A group of parliamentarians, as well as the LCDH, condemned the arrest and violence and demanded more information. By year's end parliamentarians had questioned the Ministry of the Interior, but no official actions had been taken against the police responsible for the beating.

On October 16, Lieutenant Koudemon assaulted and seriously wounded civilian Louis Francis Koteke in a Bangui bar-restaurant. In November a Bangui court sentenced Koudemon and another government employee to 6 months in prison and ordered them to pay \$1,120 (600 thousand CFA francs) in damages.

Unlike in the previous year, there were no reports that police beat persons while forcibly dispersing demonstrators.

During the year, particularly around the time of the first round of voting in the March presidential elections, ethnic tensions within the armed forces resulted in the beating of several military personnel of the Yakoma ethnicity, the ethnicity of former president and 2005 presidential candidate Andre Kolingba, by non-Yakoma military personnel. For example on March 20, days after the first round of presidential election voting, two unidentified military officers of the Gbaya ethnicity, the ethnicity of President Bozize, beat Sergeant Marcel Kila, a Yakoma, near the Berengo military training center. No additional information was available at year's end.

Security forces rarely were punished for committing acts of violence against civilians. However, according to government records released by year's end, the Permanent Military Tribunal convicted a total of 11 members of the military on charges of committing beatings or inflicting serious injuries and deferred 1 case.

Members of the armed forces often committed other abuses against civilians, including armed robbery and racketeering. No action generally was taken against these soldiers.

Members of security forces, particularly members of the military, raped civilians during the year. Security forces rarely were punished for raping civilians; for the most part, perpetrators either escaped police custody or were released by fellow soldiers and other security agents. According to all government records released by year's end, the Permanent Military Tribunal convicted a total of 2 members of the military on rape charges and sentenced each to 10 years in prison.

On April 1, Sergeant Amadou Abakar, a member of the protection and security battalion for the National Assembly, raped a high school student from Lycee Gobongo inside the national assembly building in Bangui. Abakar reportedly raped her at gunpoint and threatened the lives of passers-by who tried to intervene. Police arrested Abakar, and during its July 29–August 19 session, the permanent military tribunal sentenced Abakar to a total of 12 years for rape and desertion.

On April 9, five uniformed military officers reportedly raped a young girl near the central market of Bangui. The officers also reportedly beat a passer-by who attempted to intervene. No additional information was available at year's end.

On September 13, a member of the police force raped a 16-year-old girl in a Bangui neighborhood. The public prosecutor of the republic ordered his arrest in September. No additional details were available at year's end.

During the year unidentified armed groups thought to include rebels and remnants of insurgency groups from previous conflicts, including former pro-Bozize com-

batants from Chad, continued to attack, rob, beat, and rape civilians in villages and those traveling on main routes, mostly in the countryside.

During the year no actions were taken against soldiers loyal to the former Patasse government or pro-Bozize fighters who committed serious violations of human rights and humanitarian law, including widespread looting; rape; abductions resulting in disappearances; inhumane, cruel, and degrading treatment; and the recruitment and use of children as soldiers prior to and during the 2003 coup.

No actions were taken against pro-Patasse Liberation Movement of the Congo troops from the Democratic Republic of the Congo (DRC) who reportedly committed numerous abuses of civilians, including torture, rape, and harassment during 2003.

On March 16, a Chadian member of the Central African Economic and Monetary Community force (CEMAC) shot and wounded high school student Akreme Paterne while he was visiting his sister in Bangui. No additional information was available at year's end.

Prison and Detention Center Conditions.—Prison conditions were well below international standards and extremely harsh; prison conditions outside Bangui were generally worse. There was an estimated one thousand prisoners in the country and 55 prisons dependent on the penal administration, many of which were no longer in use. Most of the prisons outside of Bangui were targeted by looters and completely destroyed during the 2003 fighting, which contributed to congestion, non-separation of juveniles and pretrial detainees from convicted prisoners, and related illnesses. Prison cells were overcrowded, and basic necessities, including food, clothing, and medicine, were in short supply and often confiscated by prison officials for their personal use. There were reports that guards tortured prisoners; however, unlike in the previous year, there were no reports that female inmates were raped. Prisoners depended on family members to supplement inadequate prison meals and were sometimes allowed to forage for food near the prison. Prisoners frequently were forced to perform uncompensated labor; unlike in the previous year, this work involved public works projects rather than work at the residences of government officials and magistrates.

There were two prisons in Bangui, Ngaragba central prison for men and Bimbo central prison for women. Prisoners and detainees at both prisons lived in very basic and rudimentary conditions.

Many individuals had been detained for several months and had not yet appeared before a judge. At both prisons, inmates with infectious diseases lived among healthy inmates, and medicine was either unavailable or too expensive. While prison guards would send inmates to a hospital in cases where it was deemed warranted, their prescriptions would have to be bought by family members, friends, or religious organizations; inmates with malaria, tuberculosis, and HIV/AIDS often received no effective treatment. Detainees and prisoners at both prisons received one meal per day; meals were insufficient and consisted of cassava, rice, and either green beans, fish, or (occasionally) meat, depending on the day of the week. There were no individual cells. In the common rooms, some inmates had thin matting, provided by prisoners' families and charities, that served as beds; others slept on the floor. A few shower stalls, interior open-air courtyards, and weekly visiting hours were available to all detainees and prisoners at both prisons.

Male and female prisoners were held in separate facilities in Bangui but housed together elsewhere. Pretrial detainees were not held separately from convicted prisoners.

Constructed in 1953 for 400 prisoners, Ngaragba held 285 individuals on September 16, including 162 pretrial detainees. Several detainees had been detained for seven months and had not yet appeared before a judge. On average, there were 10 individuals in each common room. In the prison section reserved primarily for former government officials suspected or convicted of financial crimes, common rooms held four persons on average, and inmates received privileges such as access to a large courtyard with plastic chairs. A block of dark, tiny cells comprised a stand-alone structure known as the discipline block. The block smelled strongly of feces, and some human rights observers suspected that the prison still placed inmates in it; however, it was empty during visits by outside monitors, and prison officials said the block was no longer in use. Although the government repainted Ngaragba and did some other minor improvements in recent years, some of the prison walls were crumbling and in need of structural repair.

Constructed in 1980 to hold 200 prisoners, Bangui's Bimbo central prison for women held 44 women on September 20, the majority of them pretrial detainees. Bimbo's population consisted primarily of women accused of sorcery, and very few detainees had lawyers. Several individuals had been detained for four months and had not appeared before a judge. One detainee accused of defaulting on a debt had spent more than four months in the prison, even though the infraction constitutes

a civil rather than a criminal matter; after being alerted to her case, the public prosecutor of the republic ordered her release, and she was freed the following day. Prison officials allowed detainees and prisoners to be sent to a nearby hospital when they became ill. Prison officials allowed women to leave Bimbo for a week or two in the case of child birth and the death of a parent. Overcrowding was reportedly not a problem in Bimbo, and children younger than five years old were allowed to stay with their mothers at the prison. Prison officials did not provide soap, and this contributed to a lack of hygiene. There were no reports of rapes or sexual harassment by the all-male prison guard staff.

Conditions in detention centers were much worse than those in prisons and in some cases were life threatening. There was no law requiring detention centers to provide a minimum amount of food to detainees, and suspects in police and gendarmerie cells had to depend on family, friends, religious groups, and nongovernmental organizations (NGOs) for food. In Bangui detention centers, detainees reported and showed scars, bruises, and other evidence of beatings and torture. Overcrowding was a severe problem in detention centers across the country. Detainees with infectious diseases lived among healthy prisoners, and medicine was not available. Suspects generally slept on bare cement or dirt floors, and lice and bedbug infestation was very common. Corruption among detention center guards, who had not been paid in months, was rife. Guards often demanded between \$0.37 (200 CFA francs) and \$0.55 (300 CFA francs) before visitors were allowed to see detainees, before water could be fetched, before food could be delivered to detainees, and before detainees were allowed to take showers; these bribe thresholds were well above what most detainees could afford. In Bangui, male and female detainees were separated; however, they reportedly were not separated in detention facilities in the countryside. According to the local human rights groups, lack of training and poor supervision at detention centers were serious problems and continued to result in torture and beatings. There were no separate detention facilities for juvenile prisoners, who routinely were housed with adults and often subjected to physical abuse.

Visits during September to five of Bangui's detention centers revealed dank, filthy, and overcrowded cells with very little light and leaky buckets for toilets. Most detainees had been in detention without appearing before a judge for more than two weeks, and some had been detained for more than three months. Several detainees complained that they had not eaten in two days, had not been allowed to bathe or shower in two weeks, and had lice. Many detainees, especially those held by the OCRB, displayed scars on their heads and feet that they said were the results of periodic torture by the guards. One OCRB detainee had a three-day-old wound from his shoulder to his wrist that was visibly very infected and received medical attention only after international visitors convinced the guards of the risk of death.

Visits on September 20 to detention cells in Bangui revealed an overcrowded OCRB cell in which there was not enough room for all 40 detainees to lay down to sleep. The OCRB and Central Police Commissariat were detaining a 13-year old boy, who said he had not eaten in 3 days, as well as a 15-year-old boy. Police were detaining the boys in very small cells with adults, despite a law forbidding the detention of children 16 years of age and younger. Once alerted to the detention of the two minors, the public prosecutor of the republic ordered the release of both boys, and they were freed the same day. The public prosecutor of the republic was very receptive to reports about conditions observed by diplomats and NGOs in detention centers and prisons and said that while his office normally conducted periodic inspections of detention centers, a growing lack of resources and personnel had made it increasingly difficult to conduct inspections. He said the OCRB often did not respect the law prohibiting the detention of persons under 16 years of age.

Each detention center was supposed to assign an investigator to each of its detainees to compile a file that would facilitate the timely processing of each case. However, the number of investigators was insufficient, and even in Bangui, there often was only one vehicle and one typewriter for each detention center; the lack of other resources also severely impeded the timely conduct of investigations.

The government permitted prison visits by human rights observers. The International Committee for the Red Cross (ICRC) and religious groups routinely provided supplies, food, and clothes to prisoners. The ICRC and the human rights unit of BONUCA, the UN peace-building mission in the country, had unrestricted access to prisoners.

d. Arbitrary Arrest or Detention.—The law provides protection against arbitrary arrest and detention and accords the right to a judicial determination of the legality of detention; however, security forces frequently ignored such provisions, and arbitrary arrest and detention were serious problems.

Role of the Police and Security Apparatus.—The National Police, including the OCB, are under the direction of the director general of police, who is under the direction of the Ministry of Interior and Public Security. The military forces, including the presidential security forces, and the National Gendarmerie are under the jurisdiction of the Ministry of Defense. Both the police and military share responsibility for internal security.

As part of its efforts to protect citizens and safeguard property, the government continued to support joint security operations in the capital conducted by the armed forces, the regional peace force known as CEMAC, and French forces.

Police were not effective, partly as a result of salary arrears owed by the government and a severe lack of resources. Many citizens lacked faith in the police; consequently, mob violence against persons suspected of theft and other offences remained a problem (see section 1.a.). Corruption in the police, including the use of illegal roadblocks to commit extortion, remained a serious problem (see sections 2.d. and 3). The government did not take effective action to punish abusers, and impunity remained a severe problem. However, a government commissioner in charge of human rights and good governance said his staff was conducting training of security forces to make them aware of the punishment that could result from constructing illegal roadblocks, and that the government began implementing a zero-tolerance policy to eliminate illegal roadblocks during the last quarter of the year; it was not clear how effective this policy was by year's end. During the year the LCDH accused the security forces of terrorizing the population, killing civilians, and committing armed robbery with impunity. Despite being criticized by local human rights groups and the media for committing numerous, serious human rights abuses, the OCB continued to expand its mission, which local human rights groups said was cause for concern. Although the OCB was created to function only in Bangui and to focus on combating violent banditry, the OCB increasingly investigated, detained, and abused persons accused of lesser crimes such as embezzlement and petty theft; it also conducted some operations outside Bangui. During the year the minister of justice said there was a need to better define the OCB's mission.

There were mechanisms available to investigate police abuses. Citizens could and did file complaints of police abuse with the public prosecutor of the republic. The most common complaints involved thefts, rape, brutality, and embezzlement. With the assistance of BONUCA and the high commissioner of human rights and good governance, the prosecutor actively investigated numerous complaints of police abuse, including reported killings (see section 4). The prosecutor had the authority to order the arrest of police officers suspected of committing abuses and exercised that authority during the year; however, the prosecutor's staff was small, had only one computer (a gift from an NGO), and was severely lacking in other resources.

The head of the OCB said that during the year the government had taken disciplinary action against more than 10 OCB members for human rights violations, including 2 OCB members accused of raping a woman; however, he refused to share details of such investigations, citing reasons of national security.

BONUCA continued to provide security forces agents, including police officers, with human rights training. By year's end BONUCA had trained more than 900 security forces agents since its creation in 2000.

Arrest and Detention.—Judicial warrants are not required for arrest. The law stipulates that persons detained in cases other than those involving national security must be brought before a magistrate within 48 hours, although this period is renewable once, for a total of 96 hours. In practice authorities often did not respect this deadline, in part due to inefficient judicial procedures and a lack of judges. By law national security detainees are defined as those held for crimes against the security of the state. National security detainees may be held without charge for up to 8 days, and this period can be renewed once, for a total of 16 days. However, in practice persons were held without charge for long periods. The law allows detainees to have access to their family and to legal counsel. Indigent detainees may request a lawyer provided by the government. Detainees are allowed to post bail or have family members post bail for them. Lawyers and families generally had free access to detainees.

Security forces arbitrarily arrested and detained numerous persons, particularly around the first round of presidential elections on March 13. For example on March 10, security forces arrested high school student Guy Aime Nzawouin and accused him of selling voter registration cards. Authorities detained him in Bangui's Ngaragba prison. No additional information was available at year's end.

On April 19, security forces arrested Joseph Clotaire Abanda-Kaya, the country's charge d'affaires in the DRC. Abanda-Kaya was accused of preparing a coup d'etat to overthrow President Bozize. No additional information was available at year's end.

On August 4, the OCRB arrested on charges of fraud Marcel Bagaza, former chief of mission for the former president of the National Assembly and member of the MLPC's National Political Council, and three other men, Kalme Djakobaye Sindo, Alexandre Marboua, and Edourd Beroge. A court subsequently sentenced Bagaza to a suspended prison term. No additional information was available at year's end.

There were reports of persons detained for political reasons during the year. The government permitted BONUS access to them on a regular basis. At year's end it was not clear how many political detainees there were.

Security forces arrested and detained at least one journalist during the year (see section 2.a.). Unlike in the previous year, there were no reports that security forces arrested demonstrators during the year.

During the year human rights observers and government officials estimated that at least 100 women, men, and children were arrested and charged with the practice of witchcraft, or sorcery. Prison officials at Bangui's Bimbo central prison for women said that persons accused of sorcery were arrested and detained or imprisoned for their own safety since village mobs sometimes killed suspected sorcerers or witches (see section 1.a.). Human rights observers said the belief in sorcery was so entrenched in the country that attempts to abolish legal recognition of the crime would be very difficult; however, observers said they were continuing to push for fair trials of those accused of the crime (see section 1.e.).

During the year a court granted provisional liberty to Dr. Joseph Kalite, a former health minister arrested in July 2004. However, he remained under investigation for possession of illegal weapons at year's end.

Prolonged pretrial detention was a serious problem. As of late September, pretrial detainees in Bangui comprised 57 percent of Ngaragba's prison population and an estimated 50 percent of Bimbo's prison population. Detainees were usually informed of the charges levied against them; however, many waited in prison for several months before seeing a judge. Judicial inefficiency, corruption, severe financial restraints on the judicial system, and a lack of judges contributed to pretrial delays. Some detainees remained in prison for years because of lost files and bureaucratic obstacles.

Public Prosecutor of the Republic Findiro Firmin said he was "always at war" with the OCRB and that the head of the OCRB frequently neglected to follow his orders and laws pertaining to pretrial detention.

Amnesty.—During the year President Bozize pardoned all prisoners convicted of misdemeanor offenses. It was unclear how many prisoners benefited from the pardon.

On October 19, President Bozize pardoned General Ferdinand Bomba Yeke, former head of presidential security forces for former president Patasse. Bomba Yeke, who many considered to be a political prisoner, was subsequently released from a military base in Bangui. Bomba Yeke had been accused of using jet fighters to kill numerous rebels who helped then General Bozize seize power. Military sources said Bomba Yeke's detention was for his own safety, as some former rebels who had fought alongside Bozize had vowed to kill him to avenge losses he caused in their rebellion.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary; however, the judiciary remained subject to the influence of the executive branch. Judges are appointed by the president after being nominated by the Superior Council of Magistrates. The courts barely functioned due to inefficient administration of the courts, a shortage of trained personnel, growing salary arrears, and a lack of material resources. For example the Ministry of Justice had only one computer and one printer to serve the entire country. In addition, many citizens did not have access to the judicial system. The Ministry of Justice occasionally had sufficient funds to send judges to geographically isolated communities located great distances from the nearest courthouse, but the average citizen had to travel at least 31 miles to reach 1 of the countries 25 court houses. More courts were being established beyond the capital, including six courts destroyed in the 2003 coup that were rebuilt in 2004; however, traditional justice ordered by the head of a family or a village retained a preponderate role in settling conflicts and administering punishments. Furthermore, for the entire population, there were fewer than 150 judges, many of whom were not intimately familiar with the national laws. The overwhelming majority of citizens did not have the opportunity to be defended by a barrister, as there were fewer than 40 practicing lawyers in the country, almost exclusively in Bangui.

Judicial corruption remained a serious impediment to citizens' right to receive a fair trial. According to the LCDH, the judicial system was "rotten," from the judges down to the bailiffs. Many lawyers would pay judges to receive verdicts favorable

to their clients. There were, however, some efforts to combat judicial corruption. In July the new minister of justice, Paul Otto, introduced a zero-tolerance policy and suspended four judges suspected of engaging in corruption. A special disciplinary council composed of high-ranking judicial officials such as the president of the supreme court, as well as magistrates elected by their peers, conducted a review of the four judges' actions and judicial history, which was ongoing at year's end. In addition, during the year the Ministry of Justice began conducting a standard ministry-wide review every two months to identify areas where lack of efficiency might be hindering the judicial process. There was no additional information on these reviews at year's end.

The judiciary consists of a tribunal of first instance, the court of appeal, the cassation court, the high court of justice, the supreme court, commercial and administrative courts, a military court, and the Constitutional Court. The highest court is the Constitutional Court, which determines whether laws passed by the National Assembly conform to the constitution. The Constitutional Court also receives appeals challenging the constitutionality of a law. Lower courts hear criminal and civil cases and send appeals to the court of appeals.

Trial Procedures.—Trials are held publicly, and defendants have the right to be present and to consult a public defender. Juries are used in the penal court for criminal trials. If an individual is accused of a serious crime and cannot afford a lawyer, the government has an obligation to provide one. Defendants also have the right to question witnesses, to present witnesses and evidence on their own behalf, and to have access to government-held evidence relevant to their case. Defendants are presumed innocent until proven guilty, and if convicted, defendants have the right to appeal. The government generally complied with these legal requirements; however, the judiciary did not enforce consistently the right to a fair trial, and there were many credible reports of corruption within the court system. According to the minister of justice, there continued to be a grave lack of neutrality among judges, many of whom were significantly influenced by politics in their rulings. One ethnic group in particular was reportedly subject to legal discrimination and unfair trials (see section 5).

During the year the OCRB continued to commit extrajudicial killings of persons suspected of being violent recidivists. The government and, to some degree, the citizenry tolerated these acts, in part because of a general lack of faith in the judicial system (see section 1.a.).

There were numerous reports that, due to judicial inefficiency, citizens in a number of cities established their own courts to deal with cases through parallel justice, especially in cases of suspected witchcraft; however, the minister of justice disputed the existence of such alternative courts.

Witchcraft or sorcery is a crime punishable by execution, although no one accused of witchcraft received the death penalty during the year. Most individuals convicted of sorcery received sentences of 1 to 5 years in prison; they can also be fined up to \$1,500 (817,836 CFA francs). During a typical trial of someone accused of sorcery, traditional doctors were called to give their opinion of the suspect's ties to sorcery. "Truth herbs" were used to make a suspect "confess." Neighbors were called as witnesses and, because spells were believed to involve burying bits of clothing, sample cuttings of clothes were brought before the jury as evidence. Police and gendarmes conducted investigations into witchcraft, and according to the minister of justice, investigations into allegations of sorcery were difficult.

The permanent military tribunal, which judged only members of the military accused of crimes, held two sessions during the year. During the first session, held between July 29 and August 19, the tribunal judged 38 cases on a variety of alleged human rights violations, including extrajudicial killings, rape, and armed robbery (see sections 1.a. and 1.c.).

Political Prisoners.—There were reports of at least one political prisoner (see section 1.d.). Authorities granted BONUCA's human rights unit and human rights NGOs free access to prisons during the year.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits invasion of homes without a warrant in civil and criminal cases; however, police sometimes used provisions of the penal code governing certain political and security cases that allow them to search private property without a warrant. Security forces continued to carry out warrantless searches for guns and ammunition in private homes. For example at 2 a.m. on July 4, members of the OCRB entered the home of Gilbert Bissidi Beodo, president of a local Bangui chapter of the opposition party MLPC, and searched his house. After finding a gun dating from 1961 that was bequeathed to Bissidi Beodo by his father, the OCRB arrested him. No additional information was available by year's end.

The government continued to engage in wiretapping without judicial authority. During the year unidentified armed groups attacked, looted, and burned homes in rural areas in the northern part of the country (see sections 1.a., 1.c., 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; however, despite the implementation of a new and almost completely decriminalized press law during the year, the government restricted freedom of the press. The government employed threats and intimidation to limit criticism of the government, mostly prior to the conclusion of presidential and legislative elections in the spring. On the whole, local media observers said there was greater press freedom during the year and attributed the increase of press freedom to the new press law and the creation in February of the High Council of Communications (HCC), an independent institution composed of nine members, including journalists, charged with promoting press freedom and assisting the government with media licensing and regulation. In addition, the Central African Journalists' Union (UJCA) and the Central African Association of Private and Independent Newspaper Publishers, both of which campaigned vigorously for the adoption of the new press law, continued to advocate greater press freedom during the year and facilitated unprecedented national election coverage by local media. Journalists who worked for state-owned media reportedly practiced self-censorship.

Individuals could criticize the government publicly without reprisal; however, the government attempted to discourage meetings by the political opposition on at least one occasion during the year (see section 1.c.).

Throughout the year, more than 30 newspapers, many of which were privately owned, were published at varying intervals and often criticized the president, the government's economic policies, and official corruption. While five independent dailies—including *Le Citoyen*, *Le Confident*, and *Le Democrate*—were available in Bangui, they were not distributed outside of the Bangui area, and the absence of a functioning postal service continued to hinder newspaper distribution. Financial problems prevented many other private newspapers from publishing regularly, and the average price of a newspaper, approximately \$0.55 (300 FCA francs), was too much for most citizens to afford.

Radio was the most important medium of mass communication, in part because the literacy rate was low. The government owned and operated a radio station and the country's only television station. Unlike the previous year, the activities of the president and other senior government officials did not dominate the broadcast media. This change was due to the HCC's efforts to provide the country's political parties with equal access to state-owned media services. For example during the electoral campaign following the first round of elections in March, the HCC intervened to provide each second-round presidential and legislative candidate with an equitable number of air-time minutes on Television Centrafrique and on Radio Centrafrique.

The private radio station Radio Ndeke Luka continued to provide a popular and independent alternative to the state-owned Radio Centrafrique, although the reach of Ndeke Luka was limited; outside Bangui, it was available for only one hour daily, via shortwave. Ndeke Luka broadcast domestically produced national news and political commentary and rebroadcast international news throughout the country, with assistance from a foreign media development organization and the UN Development Program. Radio Notre Dame, which was owned and operated by the Catholic Church, broadcast national news, debates, legal counseling, and human rights education. International broadcasters, including Radio-France Internationale, continued to operate during the year.

The government continued to monopolize domestic television broadcasting, although at least one application to establish a private television station was pending at year's end.

Journalists continued to face many challenges, including chronic financial problems, a serious deficiency of professional skills, the absence of an independent printing press, and a severe lack of access to information held by the government (see section 3). The UJCA continued to lobby the government for the creation of a national press center where journalists could receive professional training.

During the year, particularly prior to presidential and legislative elections in March and May, security forces often harassed journalists and sometimes physically and verbally threatened them. In addition, security forces arrested and detained a journalist on at least one occasion, and on another occasion reportedly tried to kidnap a journalist.

In February police in Bangui arrested the editor in chief of *Le Confident* and detained him without charge for 48 hours.

In March, following critical press coverage of President Bozize's refusal to participate in a televised debate prior to the presidential election, the minister of the interior summoned Ndeke Luka news editor Patrick Akibata and other Ndeke Luka staff members and reportedly threatened to close Radio Ndeke Luka if the station continued to criticize the president.

Following critical press coverage of the second round of presidential and legislative elections on May 8, members of the presidential security forces and supporters of President Bozize issued death threats in person and by telephone to *Le Citoyen* managing editor Maka Gbossokotto; Zephirin Kaya, who presented a popular civic education show on Radio Ndeke Luka; and Patrick Akibata, the news editor in charge of election coverage for Radio Ndeke Luka. In addition, on May 15, security forces acting on the orders of a member of the presidential security forces, reportedly tried to kidnap Kaya at a Bangui airport; however, Kaya managed to escape. Gbossokotto and Akibata said the threats were linked to reports carried by Ndeke Luka and *Le Citoyen* that members of the security forces had intimidated voters and committed acts of violence prior to the election.

At the beginning of the year, the president signed a law passed by the transitional legislative body in December 2004. Under the law, no journalist can be imprisoned for defaming a third party in a published story; instead, a right of reply or compensation must be accorded to the plaintiff. However, the law still provides for terms of imprisonment and fines of up to \$1,823 (1 million CFA francs) for journalists who incite disobedience among security forces or incite persons to violence, hatred, or discrimination through publication in a newspaper or a broadcast. In addition the law provides for terms of imprisonment of between 6 months and 2 years and fines of up to \$1,823 (1 million CFA francs) for the publication or broadcast of false or fabricated information that "would disturb the peace." Although defamation is no longer punishable by imprisonment under the law, journalists found guilty of libel or slander faced fines of between \$182 and \$1,823 (100 thousand and 1 million CFA francs).

Other provisions in the new press law that remain causes for concern among local press observers include the following: a requirement that local press organs submit copies of their next publications to four government entities and the HCC prior to distribution, and the requirement that foreign press organs submit copies of publications to two government ministries and the HCC at least four hours before distribution.

There were reports that local administrators in or near Bouar and Berberati confiscated or seized editions of publications during the year.

On December 2, the minister of communication banned the diffusion by media of songs, programs, or articles deemed to have a "misogynist character" or to disrespect women.

Officials used libel laws to suppress criticism of political leaders on at least one occasion. Following critical press coverage of President Bozize's decision to pardon numerous criminals in June, a government prosecutor filed a lawsuit against Gbossokotto. He accused Gbossokotto of committing libel in an article published in *Le Citoyen* during the summer. The lawsuit was still pending at year's end.

According to the HCC, during the year a court revoked a one-year suspended sentence and \$1,000 (546,750 CFA francs) fine imposed on Gbossoko in August 2004 for libel charges.

There were reports that the government occasionally limited or blocked access to the Internet for certain journalists who were critical of the government.

There were no reports that the government restricted academic freedom.

Local journalists and the HCC reported that violence perpetrated by former pro-Bozize rebel fighters, forces loyal to former president Patasse, and armed bandits prevented Bangui-based reporters from venturing outside the capital and severely limited the availability of information about several rural prefectures, particularly in the northern and western regions of the country.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The constitution provides for the right of assembly; however, although the government afforded more respect to this right during the year, the government restricted this right on a few occasions. Organizers of demonstrations and public meetings were required to register with the minister of the interior 48 hours in advance, and political meetings in schools or churches were prohibited. The law required any association intending to hold a meeting to write a letter to the Ministry of Interior and get the ministry's approval prior to any meeting. In some cases, when associations asked for such approval, the ministry refused "for security reasons."

On at least one occasion, police beat and arrested persons holding a meeting (see section 1.c.).

Unlike in the previous year, there were no reports that police beat or detained demonstrators or used force to disperse demonstrations during the year. Unlike in the previous year, security forces did not kill protesters.

On December 10, approximately 100 riot police prevented striking civil servants from holding a rally in Bangui by sealing off the headquarters of the largest trade union. Minister of Labor Jacques Bothy said police acted illegally and violated workers' rights, noting that the trade union's headquarters was an international zone under the control of the International Trade Organization.

No action was taken against members of the security forces responsible for the use of excessive force to disperse demonstrations in 2003 or 2002.

Freedom of Association.—The constitution provides for freedom of association, and the government generally respected this right in practice during the year. All associations, including political parties, must register with the Ministry of Interior to enjoy legal status. The government usually granted registration expeditiously. The government normally allowed associations and political parties to hold congresses, elect officials, and publicly debate policy issues without interference, except when they advocated sectarianism or tribalism.

The law prohibiting nonpolitical organizations from uniting for political purposes remained in place; however, there were no reports that this law was enforced during the year.

c. Freedom of Religion.—The constitution provides for freedom of religion but establishes fixed legal conditions and prohibits what the government considers religious fundamentalism or intolerance; at times, the government limited this right in practice. The constitutional provision prohibiting religious fundamentalism was understood widely to be aimed at Muslims, who made up between 15 and 20 percent of the population.

Religious groups (except for traditional indigenous religious groups) were required by law to register with the Ministry of Interior. The ministry's administrative police kept track of groups that failed to register; however, the police did not attempt to impose any penalty on such groups. The ministry could decline to register, suspend the operations of, or ban any organization that it deemed offensive to public morals or likely to disturb the peace. Any religious or nonreligious group that the government considered subversive was subject to sanctions. The Ministry of Interior also could intervene to resolve internal conflicts about property, finances, or leadership within religious groups. However, the government imposed no new sanctions on any religious group during the year.

According to the Ministry of Territorial Administration, several churches whose activities were suspended by the government in 2003 had fulfilled government requirements and reopened. To resume their activities, religious institutions must prove that they have a minimum of one thousand members, and the reverends must bring evidence that they graduated from the highest religious schools and fulfilled official requirements on church creation. This decree was reportedly intended to regulate the proliferation of places of worship.

The practice of witchcraft or sorcery is a criminal offense under the penal code, and although many individuals were arrested for these practices, it was often in conjunction with some other offense, such as murder. Authorities said that police often arrested and detained persons accused of witchcraft or sorcery in order to protect them from societal violence against suspected witches or sorcerers in the communities of the accused.

Mobs reportedly continued to kill and injure suspected sorcerers or witches during the year (see section 1.a.).

Societal Abuses and Discrimination.—In general there was religious tolerance among members of different religious groups during the year; however, there were occasional reports that some villagers who were believed to be witches were harassed, beaten, or sometimes killed by neighbors (see section 1.a.).

There was no known Jewish population and no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The constitution provides for the right to move freely throughout the country; however, the government restricted this right during the year. Security forces, customs officers, and other officials harassed travelers unwilling or unable to pay bribes or "taxes" at checkpoints along major intercity roads and at major intersections in Bangui.

During the first half of the year, police increased the number of vehicles that it stopped and searched, particularly in Bangui. In addition, local human rights organizations and UN officials said the problem of illegal road barriers constructed by members of the military continued to be widespread and that travelers encountered extortion at these barriers on a weekly basis. Members of the military did not allow road travelers to pass without paying a fee. For example merchants and traders traveling more than 350 miles on the main route from Bangui to Bangassou encountered an average of 25 military barriers; at each road block, a motorist paid an average fee of \$16 (8,781 CFA francs), which amounted to \$410 (225,000 CFA francs) for the entire trip. This type of extortion greatly discouraged trade and road travel and severely crippled the country's economy. Impunity continued to facilitate the use of illegal roadblocks and extortion of motorists by security forces, and there were no reports that the government punished or prosecuted members of the security forces who engaged in these activities.

On March 13, the day of the first round of presidential and legislative elections, the government closed all border crossings and forbade all nonauthorized automobiles from circulating in urban centers during voting hours. The government also prohibited all flights, except for international flights, and river traffic.

During at least part of the year, the military reportedly forbid travel through the northern town of Ben-Zambe, the birthplace of President Bozize, for any persons who did not belong to the president's Gbaya ethnicity.

Significant numbers of unidentified bandits and former rebels continued to severely impede freedom of movement—including that of traders and delivery trucks—particularly in northern, and northwestern zones of the country that the government effectively did not control. The government was also unable to control highway bandits operating in the eastern prefectures of Ouaka and Haute-Kotto. The highway bandits, or *coupeurs de routes*, often constructed road barriers to stop drivers, robbed them, and sometimes killed them if they refused to pay. Because many travelers ceased carrying large sums of money with them, many highway bandits in the northern and northwestern areas of the country reportedly turned to the more lucrative business of kidnapping and targeted the children of a traditionally wealthy ethnic group (see section 5).

With the exception of diplomats, the government required that all foreigners obtain an exit visa. Travelers intending to exit the country could be required to obtain affidavits to prove that they owed no money to the government or to parastatal companies.

The constitution does not permit the use of exile, and the government did not employ it in practice. Former President Patasse remained in self-imposed exile during the year.

During the year the government facilitated the repatriation of some CAR refugees from neighboring countries; however, due to an absence of security and the resulting disruption of agricultural activities in the north, the Office of the UN High Commissioner for Refugees (UNHCR) did not encourage repatriations to that region.

Between June and December, bands of unidentified armed men attacked civilians in the north, causing between 12,000 and 15,000 persons to flee the country. Most fled to southern Chad. At year's end an estimated 45,000 CAR refugees residing in southern Chad, most of whom had fled CAR during 2002 and 2003.

Between January and December, unidentified armed groups committed violations against the M'bororo ethnic group on account of their relative wealth, causing between 3 thousand and 10 thousand M'bororos to flee the Ouham-Pende and Nana-Mambere prefectures in the northwest (see section 5).

Some observers criticized the government for failing to restore order to the north; however, on August 25, a UNHCR official based in Bangui said the government was taking the problem seriously after the president sent some military forces to the north to engage the unidentified armed groups.

Internally Displaced Persons (IDPs).—There continued to be large numbers of persons who were internally displaced by the 2003 coup and the continuing instability, particularly in the north. In June 2004 there were between 230 thousand and 300 thousand IDPs in the country; however, there were no reliable data on the number of IDPs. According to the UNHCR, most IDPs were displaced for short periods of time. The governments of CAR, Chad, and Cameroon conducted joint security operations in an effort to secure the northern region of CAR and control the proliferation of small arms. Despite these operations, however, the government was not able to provide a sufficient degree of security or protection for IDPs in the northern part of the country. The absence of security rendered this region inaccessible to humanitarian organizations, contributing to a lack of proper medical care, food security, and school facilities. There were no reports that the government attacked IDPs or that it forced them to resettle under dangerous conditions.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to countries where they feared persecution, and granted refugee status and asylum. The government accepted refugees prima facie. The government continued to cooperate with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

Almost all refugees in the country were registered with the National Commission for Refugees. According to the UNHCR, by year's end the country was hosting a total of approximately 34 thousand refugees. Most of the refugees came from Sudan and the DRC.

In September and October, the UNHCR assisted the governments of the CAR and Chad in the repatriation of approximately 1,400 Chadian refugees. In addition, in the last three months of the year, the UNHCR assisted the governments of the CAR and Sudan in the repatriation of several thousand Sudanese refugees.

During the year security forces subjected refugees to the same types of arbitrarily arrest and detention as citizens; however, refugees were especially vulnerable to such human rights violations. The government allowed refugees freedom of movement; however, they were subject to the same roadside stops and harassment by security forces and unidentified armed groups as citizens were.

Several international organizations worked with the government and UNHCR to assist refugees during the year. They included the International Committee of the Red Cross, Doctors without Borders, an international confederation of Catholic organizations called Caritas, and international NGO International Cooperation.

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, unlike in the previous year, citizens exercised this right in presidential and legislative elections that election observers considered to be generally free and fair, despite some problems.

Elections and Political Participation.—On March 13 and May 8, the country held two rounds of multiparty presidential and legislative elections that ended two years of military rule by General Bozize. Approximately 269 national and 28 international observers, the latter from the International Organization of the Francophonie, judged the elections to be generally free and fair and representative of the voters' will, despite irregularities and accusations of fraud by candidates running against Bozize.

Before election campaigning began, there was controversy and disputes over which candidates would be able to run. On December 30, 2004, the transitional Constitutional Court ruled that seven presidential candidates were ineligible for the election. The court, which disqualified all candidates from the former ruling party, indicated that some candidates had been blocked from running for failing to deposit the required \$9,200 (5 million CFA francs), for not owning land or homes in the towns in which they resided, or for discrepancies in the documents they presented the electoral commission. The ruling provoked criticism locally and internationally. On January 4, after having called for national elections to be held on January 30, Bozize invoked presidential powers and announced that three of the seven candidates barred by the court would be allowed to run. Amid mounting tension and controversy, and following mediation by the president of Gabon on January 22, Bozize agreed to allow all his rivals, except former President Patasse, to run. According to the agreement, Patasse would remain barred because he was the subject of judicial proceedings involving accusations that he stole \$129 million (70 billion CFA francs) from the national treasury. Patasse's MLPC party announced that it would support the candidacy of former Prime Minister Martin Ziguele, who had been running as an independent. The first round of elections were then postponed to March 13 to allow candidates more time to campaign.

In addition, the Joint Independent Electoral Commission (CEMI), a 30-member group chosen by political parties, initially barred 261 of 970 legislative candidates from running in the parliamentary elections; however, a January 21 court ruling allowed 219 of the 261 barred candidates to run.

The campaign prior to the first-round elections was tense. The independent press reported isolated incidents of clashes between rival groups of supporters, particularly the supporters of Bozize and former President Kolingba; there were also allegations of some fraud involving voter registration documents. In addition, the HCC took some media-related disciplinary measures against certain candidates who vio-

lated the electoral code of conduct, signed by all candidates, by using public media to engage in personal attacks and insult other candidates.

In the first round of voting, voters chose from 11 presidential candidates and more than 900 parliamentary candidates who were competing for 105 seats in the National Assembly. General Bozize, running as an independent presidential candidate, gained 43 percent of the first-round vote, while former Prime Minister Ziguéle won 23.5 percent. The two top presidential candidates at the conclusion of the first round advanced to a run-off in the second round in May, which Bozize won with 64.4 percent of the vote, while former Prime Minister Ziguéle garnered 35.4 percent.

In the legislative elections, candidates who failed to win at least 50 percent of the vote in the first-round had to run in a second-round runoff. Since only 17 candidates won an outright majority in the first round, this system resulted in 87 candidates running in the second round. After officials counted the second-round votes for National Assembly seats, the National Convergence Movement, a grouping of smaller parties, military officials, and political leaders supporting General Bozize, won 42 seats, the largest number of any party; the MLPC won the second highest number of seats, 11. Presidential candidate Kolingba's party, the Central African Democratic Rally, took eight seats.

Poll monitors said all voting operations went generally smoothly but slowly because of organizational problems. The opposition Union of Active Forces of the Nation (UFVN), a grouping of Bozize's rivals, denounced the elections on the grounds of alleged fraud and irregularities involving voting and vote counting, and it called for the elections to be voided. Former President Kolingba said the election was completely rigged, and his supporters said militants armed by supporters of General Bozize threatened them. Although the CEMI chairman acknowledged there had been "some strange cases" at several polling stations, including cases where there were more votes than registered voters, he said he believed the election reflected the will of the people. The UN supported the election results and urged opposition groups to pursue any electoral disputes through legal channels.

On March 22, before election officials had tallied the results of the first round of presidential elections, armed individuals exchanged gunfire outside the Bangui house of former President Kolingba. The gunfight transpired late at night between members of the presidential security forces, who had been deployed in Bangui before first-round voting to keeping the peace during election time, and members of security forces who had been assigned to protect the former president. The minister of the interior said the exchange of gunfire, which resulted in the wounding of one military soldier in the head, was a "misunderstanding" between members of the military. However, according to a spokesman for Kolingba, unidentified gunmen attacked the residence in an attempt to kill Kolingba. The incident occurred on the same day that Kolingba and other presidential candidates belonging to the UFN called for the annulment of presidential elections due to fraud and irregularities.

During the electoral campaign security forces sometimes beat, threatened, and intimidated individuals.

Following elections, presidential candidate Ziguéle attempted to have Bozize's victory invalidated, claiming that soldiers had forced or intimidated citizens into voting for Bozize, but the Constitutional Court rejected this assertion.

The CEMI canceled the vote for one parliamentary seat, in the southern administrative division of Boganangone, due to fraud. By year's end the election had been rescheduled and had taken place. No additional information was available at year's end.

At the conclusion of National Assembly elections in May, crowds rioted in Bangui after the CEMI announced that a candidate of the pro-Bozize Kwa Na Kwa party had narrowly defeated Nicolas Tiangaye, the speaker of the transitional parliament (which was being replaced by parliamentary elections), in Bangui's fourth administrative district. The independent media and several human rights observers alleged that the government rigged the fourth district's election results due to fear of Tiangaye's popularity, influence, and outspoken criticism of human rights violations by the government; however, there was insufficient evidence to prove this claim. Tiangaye called for calm among his supporters "to avoid a bloodbath."

On December 30, the National Assembly adopted a law allowing President Bozize to rule by decree for a period of three months, instead of the nine months he originally requested. The law provides that all presidential decrees would require the advice of the Constitutional Court, be effective until March 31, 2006, and be subject to ratification by the National Assembly at the end of that period. The law, which was passed after cabinet meetings and consultations with the country's Constitutional Court, reportedly was intended to quicken the adoption of political and economic reforms by bypassing parliamentary debates and votes. Several local human rights NGOs criticized the National Assembly's decision to give additional power to

the president and accused President Bozize of attempting to establish a “dictatorship.” According to the minister for parliamentary affairs, rule by decree was in accordance with article 29 of the constitution.

The state remained highly centralized. The president appointed all subnational government officials—which ran the country’s 16 prefectures and 60 subprefectures—and subnational government entities had no significant fiscal autonomy. Provisions in the constitution provide for municipal elections; however, by year’s end they had not been held, and towns continued to be led by mayors appointed by the president.

According to recommendations resulting from a government-sponsored national dialogue that brought together political and civil society leaders in 2003, women were supposed to make up 35 percent of posts in government ministries and political parties. However, this provision was not respected during the year. On March 13, approximately 150 women contested seats in the first round of the legislative elections. At the conclusion of the legislative elections in March and May, 10 women were elected to the 105-seat National Assembly. There were four women in the president’s cabinet.

Members of northern ethnic groups, especially President Bozize’s Baya ethnic group, continued to predominate among the national army. Pygmies (Batwa or Ba’Aka), the indigenous inhabitants of the southern part of the country, represented between 1 and 2 percent of the population; they were not represented in the government and continued to have little political power or influence (see section 5).

There were 2 members of the M’bororo ethnic group and approximately 13 Muslims in the 105-seat National Assembly.

During the year the LCDH criticized President Bozize for holding the position of minister of defense, saying that article 23 of the constitution prohibits the president from holding “any other political function or electoral mandate,” under penalty of dismissal; however, government officials said this criticism was based on a misinterpretation of the constitution.

Government Corruption and Transparency.—Misappropriation of public funds and corruption in the government remained widespread. Corruption continued to contribute to the country’s incapacity to pay more than 45 months of government salary arrears, which the International Monetary Fund (IMF) and local human rights activists said was a major threat to the country’s security, stability, and advancement of human rights. The country’s tax collection and public expenditure management systems were extremely weak by international standards, and the lack of transparency and accountability in the use of public resources was a serious problem. Corruption was prevalent in almost every sector, from education and health to customs and law enforcement. Civil service salary fraud was draining 10 percent of the country’s monthly budget, according to public statements by the prime minister in October.

Corruption was particularly rife in the management and oversight of three of the country’s key exports, timber, gold, and diamonds. The government was not able to exercise adequate controls over these natural resources. Smuggling in the mining sector, for example, remained widespread. Experts said during the year that the quantity of diamonds exported illegally from the country—an estimated 500 thousand carats—was equal to the quantity that was exported legally and that the value of legally exported diamonds was often understated. According to an interview during the year with an IMF official, there was a particular need for the government to increase transparency in the allocation of mining permits and the regulation of enterprises active in the mining sector.

In the health sector, before providing treatment or medicine, many doctors and nurses demanded bribes of at least \$2 (1 thousand CFA francs), even of the poorest patients. In recent years, in the education sector, so many students paid teachers or administrators for a passing score on their baccalaureates, or national high school exit exams, that the exam scores lost their value in CAR. The inflation of exam scores was so egregious that it led many higher learning institutions in other countries, such as France, to evaluate CAR students with suspicion or disregard their applications altogether, effectively reducing a CAR student’s educational opportunities, according to the LCDH.

During the year several local human rights observers accused mid- and high-level government officials of profiting from the extortion that members of security forces committed on a monthly or weekly basis at roadside checkpoints and illegal roadblocks (see section 2.d.).

The government took some significant steps to combat corruption. For example in July the government created judicial structures within the public prosecutor’s office of a Bangui court (*tribunal de grande instance*) to conduct a targeted campaign against embezzlement, money laundering, and other forms of financial fraud. In ad-

dition, in September the government created two public prosecutor attaché positions and hired two judges specialized in investigating and combating corruption.

In August the government began publishing periodic declarations by government officials of their personal assets and wealth; the declarations were intended to prevent embezzlement and other forms of government corruption. According to the constitution, the president, government ministers, members of the National Assembly, and judges are required to declare publicly their personal assets.

On September 15, the minister of mines indefinitely suspended the granting of mining permits for gold and diamonds and prohibited foreign nationals from traveling in mining zones. The prohibition followed the government's discovery in July and August of numerous irregularities in mining zones, as well as the presence of numerous foreigners, many of whom did not have mining permits.

On September 22, the government began cooperating with the UN Development Program (UNDP) and international NGO Transparency International to investigate corruption. The government-owned and independent media began facilitating a public information campaign to underline corruption's effects and solicit anonymous public collaboration in the investigation, which was intended to measure corruption's severity and scope, as well as the harm it had done to the country's development.

In October the government suspended without pay three ministers following a probe into government employee salaries. The probe was intended to reduce the country's inflated public sector wage bill and resolve some of the government's salary arrears. The three suspended officials—the ministers for communications, tourism, and public works—were suspected of falsely claiming pay, bonuses, or benefits. The suspensions came a week after the government published a salary census of approximately 1,800 employees. The census exposed 1,699 ghost workers, or civil servants illegally receiving salaries. Several ghost workers were using fake documents and had no connection with public service. The census helped the government recover at least \$680 thousand (370 million CFA francs). Prime Minister Dote announced in a radio address that civil servants caught receiving illegal salaries would lose three months of pay and have to appear before a public sector disciplinary board, which could forward their cases to a court of law.

Also in October the government suspended for 3 months without pay 3 public treasury employees accused of running an embezzlement scam in which they netted \$95,500 (52 million CFA francs). By year's end a civil service disciplinary commission had not yet decided whether to terminate their employment and forward their case to a court.

During the year the government took some steps to monitor timber exports and the payment of taxes on forestry products, and to increase transparency in the allocation of timber industry permits. The government also continued to work with the IMF to further improve tax collection on timber products.

The law provides for access by journalists to "all sources of information, within the limits of the law"; however, it does not specifically mention government documents or government information, and no mention is made of access by the general public. Furthermore, the government was often unable or unwilling to provide information, and lack of access to information continued to be a problem for journalists and the general public. Furthermore, several years of political and economic instability and conflict have made information difficult to collect, even for the government, particularly in the countryside. Information on the humanitarian situation, for example, was hard to come by and sometimes contradictory.

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

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing in press releases their findings on human rights cases. Government officials were somewhat responsive to their views. In general, local NGOs were weak, although there were a few that were active and had a sizable impact on the promotion of human rights. Some local NGOs, including the LCDH, the Human Rights Observatory, the Association Against Torture, and the Association of Women Jurists actively monitored human rights problems; worked with journalists to draw attention to human rights violations, including those allegedly committed by the army; pleaded individual cases of human rights abuses before the courts; and engaged in efforts to raise the public's awareness of citizens' legal rights. In addition, many members of civil society monitored the conduct of national elections in March and May. The destruction or loss of scarce resources, such as automobiles and computers, during fighting and looting in 2002 and 2003 limited local human rights NGOs, although they continued gradually to rebuild their capacity during the year. The potential impact of local human rights

NGOs continued to be weakened by the failure of most members to pay membership dues and the noticeable dearth of international development organizations and foreign diplomatic missions, which once provided them with training and some financial support. For these reasons, the activities of local human rights NGOs were quite modest in scope and limited almost exclusively to Bangui.

Several members of NGOs served on the National Transitional Council (CNT), a legislative body, before it was replaced by a newly elected National Assembly in March, and Nicholas Tiangaye, the former president of the LCDH, served as the CNT's president. Several NGOs alleged that the government rigged run-off elections in May to prevent Tiangaye from winning a National Assembly seat (see section 3).

During the year human rights organizations and some political parties called for the trial of Chadian combatants accused of crimes, especially those committed during the rebellion that culminated in a coup in 2003.

International human rights NGOs and international organizations operated in the country without interference from the government; however, there were very few operating in the country. Due to insecurity caused by unidentified armed groups in many parts of the country, the activities of international groups were limited to Bangui and sometimes a few other locations. Humanitarian workers reportedly did not operate at all in the north. Access was so limited during the year that a UNDP humanitarian specialist said that humanitarian workers "have no idea what is going on in 95 percent of the CAR." Another UN official said that if international organizations and foreign aid did not arrive in the near future, the cycle of mutinies would continue, thus increasing instability and making the country even less likely to receive foreign aid and assistance from international organizations.

During the year BONUCA's human rights section continued to actively monitor human rights practices, assist the government in capacity building, sensitize the public to human rights, conduct visits to prisons and detention centers, and conduct human rights training for hundreds of government security agents. Although based in Bangui, BONUCA had two field offices in the countryside, one in the Nana-Mambere prefecture of Bouar and one in the Ouham prefecture of Bossangoa. BONUCA continued to receive complaints of killings and other violations committed by security forces, which it researched and documented. It worked very closely with the Ministry of Justice, often visiting the public prosecutor of the republic to submit for judicial investigation complaints it received about security agents. BONUCA also worked with the Ministry of Communications and Human Rights and the High Commission of Human Rights.

On June 18, UNDP and government officials began collecting weapons from ex-combatants and reintegrating thousands of them into civilian life. In Bangui alone, the disarmament, demobilization, and reintegration (DDR) program had demobilized more than 1,400 ex-combatants, including 450 women, and reinserted more than 850 ex-combatants by the end of August. The program expected to conduct DDR for more than 7 thousand ex-combatants by the time of its conclusion. The program had collected more than 240 small arms, as well as numerous munitions, rocket launchers, grenades, and land mines by the end of August. Although the exact number of small arms in the country remained unknown, the government's estimate of 50 thousand small arms circulating nationally, beyond its control, could have underestimated the scale of the problem, according to a small arms survey published during the year by the Graduate Institute for International Studies in Geneva, Switzerland.

The High Commission of Human Rights and Good Governance, which is attached to the presidency, conducted human rights training for members of the security forces. Each week, the commission received and investigated an average of 10 citizen complaints of human rights violations committed by members of the government, and it sometimes forwarded cases to the Ministry of Justice. In addition, during the year it conducted more than 30 investigations of government ministries to combat human rights violations, including corruption. During the last four months of the year, the commission conducted a campaign to combat the use of and physically remove illegal road barriers constructed by members of the military. Having approximately 30 persons employed in its Bangui headquarters and 100 in the countryside, the commission did not have adequate resources and lacked the means to conduct proper training of its investigators. Some human rights observers criticized the commission for its lack of independence and its lack of effectiveness in reducing impunity in the security forces. In an interview during the year, the head of the commission rejected these criticisms and said that impunity was not a problem. However, he also said that the OCHR continued to commit extrajudicial killings during the year because they were effective in deterring violent crime and were supported by the general public due to a lack of confidence in the judicial system's abil-

ity to punish criminals. He said he believed the OCB had never killed an innocent person.

The Human Rights Commission (HRC) in the National Assembly sought to strengthen the capacity of the legislature and other government institutions to advance human rights. Among their human rights priorities, HRC members said they aimed to stop extrajudicial killings by the OCB, improve conditions in detention centers, reduce prolonged detentions without trial, fight corruption, expand women's and minorities' rights, and combat the worst forms of child labor. The commission said it suffered from a severe lack of resources.

On January 7, the prosecutor of the International Criminal Court (ICC) announced that the government had referred to him the situation of crimes within the jurisdiction of the ICC, including crimes committed since 2002 in the CAR. The prosecutor said an analysis would be carried out to determine whether to initiate an investigation; however, although the ICC had collected information during the year, he had not made a determination by year's end. Local and international human rights groups accused the government of "dragging its feet" and not cooperating fully with the ICC's prosecutor, and they criticized the government for not incorporating into national law provisions related to the ICC's founding statute to punish war criminals and perpetrators of crimes against humanity. According to local and international human rights NGOs, between 2002 and 2003, pro-Bozize rebels and soldiers and rebels loyal to then President Patasse committed war crimes and crimes against humanity. Rebel and loyalist fighters committed summary executions, systematic rape, and widespread looting. As a result of the fighting in 2002 and 2003, there were more than 700 registered cases of rapes of women and 140 registered cases of sodomized men. In addition, the International Federation for Human Rights (FIDH) noted the existence of mass graves. Hospitals had lists of individuals injured and killed during the fighting in the capital, including women and children.

The FIDH, the LCDH, and other human rights NGOs criticized the government's failure to conduct an exhaustive and independent investigation of the crimes committed during 2002 and 2003. Government officials said an investigation had been made difficult by the insecurity still present in the north.

On September 19, the FIDH and the LCDH, in collaboration with BONUCA, organized a day-long seminar in Bangui to discuss the progress of the ICC case and demand rehabilitation and reparations for rape victims, including those with HIV/AIDS. Participants included local NGOs, male and female rape victims, judges, members of the National Assembly, members of the security forces, international legal experts, journalists, and other citizens. Many victims in attendance spoke of social ostracism that had torn their families apart and called for the government to provide them with free psychological, medical, and social care and protection from the alleged perpetrators they had accused of rape. Following the seminar, unidentified individuals made telephone threats, some of them death threats, against four persons who participated in the seminar and told them not to cooperate with the FIDH in its attempts to collect information for the ICC.

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

The constitution stipulates that all persons are equal before the law without regard to wealth, race, or sex; however, the government did not enforce these provisions effectively, and significant discrimination existed.

Women.—Although the penal Code does not specifically mention spousal abuse, it prohibits violence against any person, and penalties could consist of up to 10 years' imprisonment; however, domestic violence against women, including wife beating, reportedly was common. Inadequate data made it impossible to quantify the extent of domestic violence. Spousal abuse was considered a civil matter unless the injury was severe. According to the Association of Women Jurists, a Bangui-based NGO specializing in the defense of women's and children's rights, victims of domestic abuse seldom reported incidents to authorities, and when incidents were addressed, it was done within the family or local community. The courts tried very few cases of spousal abuse, although litigants cited these abuses during divorce trials and civil suits. Some women reportedly tolerated abuse to retain financial security for themselves and their children. The government did not address this problem during the year.

The law prohibits rape, and rape remained a problem. The law does not specifically prohibit spousal rape. Rape is punishable by imprisonment with hard labor, although the law does not specify a minimum sentence, and judges decided on the length of a prison term to be served by a perpetrator. Police sometimes arrested men on charges of rape; however, the social stigma induced many families to avoid formal court action. During the year members of the security forces continued to

commit rape, including collective rape, often in school buildings at night; however, there were fewer reports that security forces raped women than in the previous year (see section 1.c.).

Although the law prohibits FGM, which is punishable by up to 10 years' imprisonment, girls continued to be subjected to this traditional practice in certain rural areas, and, to a lesser degree, in Bangui. According to the World Health Organization, FGM affected more than 40 percent of girls. In addition, according to data collected by the UN Children's Fund (UNICEF) between 1998 and 2003, an estimated 36 percent of females between the ages of 15 and 49 had undergone FGM. According to the Association of Women Jurists, anecdotal evidence suggested that fewer girls and women had undergone FGM as a result of efforts to sensitize women to the dangers of the practice.

The law does not prohibit prostitution; however, the law prohibits the incitement of someone to prostitution and the act of profiting from an individual's prostitution, and prostitution existed during the year. The law designates a fine and imprisonment for three months to one year for those found guilty of procurement of individuals for sexual purposes (including assisting in prostitution). For cases involving a minor, the penalty of imprisonment is between one and five years. Some young girls reportedly engaged in prostitution for economic reasons, particularly in urban centers. The practice had reportedly grown more common since 2002.

Trafficking in persons occurred (see section 5, Trafficking).

The law prohibits sexual harassment; however, the government did not effectively enforce the law, and sexual harassment was a problem.

The law does not discriminate against women in inheritance and property rights, but a number of discriminatory customary laws often prevailed, and women's statutory inheritance rights often were not respected, particularly in rural areas. The family code further strengthened women's rights, particularly in the courts; however, access to the judicial system remained very limited throughout the country.

Women were treated as inferior to men both economically and socially. Single, divorced, or widowed women, including those with children, were not considered to be heads of households. Only men were entitled to family subsidies from the government. Women in rural areas generally suffered more discrimination than women in urban areas. There were no accurate statistics on the percentage of female wage earners. Women's access to educational opportunities and to jobs, particularly at higher levels in their professions or in government service, was limited.

Polygyny is legal, although this practice faced growing resistance among educated women. The law allows a man to take up to four wives, but a prospective husband must indicate at the time of the first marriage contract whether he intends to take additional wives. In practice many couples never married formally because men could not afford the traditional bride payment. The family code authorizes the use of bride payments, but it neither requires them nor sets a minimum payment amount. Women who were educated and financially independent tended to seek monogamous marriages. Divorce is legal and can be initiated by either partner.

The Association of Women Jurists advised women of their legal rights and how best to defend them and filed complaints with the government regarding human rights violations. The organization published press releases and pamphlets on several problems, including the dangers of FGM. During the year several active women's groups solicited guidance from the Association of Women Jurists and organized workshops and seminars to promote women's and children's rights, including seminars to encourage women to participate fully in the political process. Prior to and during the presidential and legislative elections, the association advised women on the voting process and served as election observers.

Children.—The government spent little money on programs for children, and churches and NGOs had relatively few programs for youths. Following the 2003 coup, approximately three-quarters of the country's schools were destroyed, although UNICEF has since assisted the government in rebuilding some primary schools in the southwest region of the country. The failure of the education system, caused by a meager budget and salary arrears, resulted in a shortage of teachers and an increase in the number of street children. Education is compulsory from ages 6 to 14, although parents rarely were prosecuted for their children's nonattendance. Students must pay for their own books, supplies, transportation, and insurance. At the primary level (ages 6 to 11), approximately 6 out of 10 children did not attend school, according to a national census conducted by the government in 2003 and published in June. Primary school enrolment rates for all prefectures were on average less than half that of Bangui commune, and in practice, children in rural areas often started school two to three years later than children in urban areas. Girls did not have equal access to primary education, as 36.9 percent of girls of primary school age were enrolled in school, compared with 44.3 percent of boys. There were

extremely few, if any, Pygmies enrolled in primary school during the year. The census indicated that 10.8 percent of children of secondary school age were enrolled in school. The majority of young women dropped out of school at age 14 or 15 due to societal pressure to marry and bear children. In addition, the census indicated that, of persons 10 years and older, 32 percent of the country's women were literate compared with 53.8 percent of men.

In recent years communities have taken initiatives to fill the void in cases where the public education system was lacking or in areas where there were no schools. As a result, the majority of teachers at the primary level were parents, and according to the UN Office for the Coordination of Humanitarian Affairs, three-quarters of all teachers have had no formal training, a problem that continued to hinder the effectiveness of public schooling.

During the year UNICEF conducted a campaign to raise awareness of the importance of child education, with a particular focus on the need to increase the literacy rate among girls. In addition, in recent years, the government, UNICEF, the UN Population Fund, and other donors have developed an action plan to address the need for more complete birth registration to improve children's access to education and other social services. There were no reliable statistics on birth registration; however, in September, UNICEF began conducting a five-month study to determine what percentage of births was registered.

Corruption in the education system continued to be a problem. For example, in July cheating and fraud resulted in the invalidation of baccalaureates, or national exit exams taken by students in their final year of high school. Police arrested 21 students from 3 institutions in and around Bangui, as well as a teacher and employees of a Bangui printing house accused of providing students with questions in advance of the exam. In November a court sentenced the printing house employees to prison terms between 1 and 3 years and fines of between \$280 and \$560 (150 thousand and 300 thousand CFA francs) for committing theft and fraud.

In addition, according to numerous credible reports, male teachers in primary and secondary schools as well as at the university level routinely pressured their female students into having sexual relationships in exchange for passing grades; the spread of HIV/AIDS was extremely prevalent between teachers and their female students.

The government's incapacity to pay salary arrears to teachers and scholarship arrears to students at the university level continued to be a serious problem. For example between mid-April and June, teachers at the University of Bangui suspended all academic and administrative activities until the government paid them \$220 thousand (120 million CFA francs) in salary arrears.

The government did not provide medical coverage for uninsured children. Most children's families could not afford access to the fee-based health care system. Health officials cited evidence during the year that diseases previously brought under control, such as human sleeping sickness and river blindness, were now spreading again. However, there had not been a diagnosed case of polio since 2004, and the government continued to conduct a national antipolio immunization campaign intended to reach at least 650 thousand children under 5 years of age. According to UNICEF, the country's main health indicators, including under-five child mortality, maternal mortality, and malnutrition, continued to deteriorate markedly in recent years. For example more than 1 child out of every 10 (11.5 percent) died before the age of 1, whereas in 1995, fewer than 1 out of every 10 died. During the year, in response to the deteriorating healthcare situation, the government continued working with UN agencies to implement a plan to reduce maternal and infant mortality by 2015.

The penal code forbids parental abuse of children under the age of 15 years, and child abuse was not widespread. A juvenile court tried cases involving children and provided counseling services to parents and juveniles during the year.

FGM was performed primarily on young girls (see section 5, Women).

The law establishes 18 as the minimum age for marriage. However, an estimated 57 percent of children had entered into marriage before the age of 18, according to data collected between 1986 and 2003 by UNICEF.

Trafficking of children and child prostitution occurred (see section 5, Trafficking).

During the year unidentified armed groups in the northwest of the country kidnapped numerous children, reportedly often keeping them in chains and depriving them of food (see section 5, National/Racial/Ethnic Minorities).

Child labor was a problem (see section 6.d.).

There were approximately 6 thousand street children between the ages of 5 and 18 residing in the country, including 3 thousand in Bangui. Many experts believed that HIV/AIDS and a belief in sorcery, particularly in rural areas, contributed to the large number of street children. An estimated 110 thousand children have lost one or both parents to HIV/AIDS, and children accused of sorcery (often reportedly

in relation to HIV/AIDS-related deaths in their neighborhoods) were often expelled from their households. Many street children begged and stole; several charitable organizations provided them with humanitarian assistance.

There were some NGOs specifically promoting children's rights, including some which dealt with street children.

Trafficking in Persons.—The law does not prohibit trafficking in persons, and although there were no specific reports during the year that persons were trafficked, most human rights observers said that trafficking in persons, including children, occurred occasionally. According to NGOs, these instances primarily involved orphaned boys and girls. There was strong agreement among NGOs and government officials that trafficking in persons was not widespread. Child prostitution remained a problem, particularly in urban centers. Government officials said that trafficking in persons occurred but was limited to isolated instances involving persons from other countries, primarily Cameroon and Nigeria. Statistics and specific examples of trafficking were not available.

Traffickers can be prosecuted under laws against slavery, labor code violations, mandatory school age laws, and laws against the exploitation of prostitution by means of coercion or fraud. Specific laws that address the crime of prostitution have been used in recent years to punish those who trafficked women for the purposes of prostitution.

During the year the government did not receive or investigate any cases of trafficking, nor did it use or have access to special investigative techniques in trafficking investigations. By year's end no government agency had been assigned to study, combat, or raise awareness of trafficking. The head of the High Commission of Human Rights and Good Governance, located in the president's office, said that because trafficking was not a problem in the country, the government had not set up shelters for trafficking victims and had not incorporated a trafficking component in its human rights training seminars for security forces and other officials.

Trafficking was confined primarily to children, both girls and boys, who were primarily orphans. During the year there were reports that these children were forced into domestic servitude and commercial labor activities, such as street vending and agricultural work. In recent years, there were reports that children were brought in by members of the foreign Muslim community from Nigeria, Sudan, and Chad and that merchants, herders, and other foreigners doing business in and transiting the country brought girls and boys into the country. It was not clear whether children who were victims of trafficking were related to their caretakers. Child trafficking victims were not afforded the benefit of a formal education, despite the mandatory school age, and worked without remuneration for their labor. There were a few anecdotal reports of children being trafficked to Nigeria and several other nearby countries for use as agricultural workers. There was also anecdotal evidence of sexual exploitation of girls in Bangui, and there were reports that children were publicly beaten.

Some girls entered prostitution to earn money for their families.

There were no reports that government officials were involved in trafficking activities.

There were no known NGOs specifically working to combat trafficking.

Persons with Disabilities.—There was no codified or societal discrimination against persons with disabilities. However, there were no legislated or mandated accessibility provisions for persons with disabilities, and such access was not provided in practice. The government had not developed a national policy or strategy to provide assistance to persons with disabilities. Approximately 10 percent of the country's population had disabilities, mostly due to polio. There were several government- and NGO-initiated programs designed to assist persons with disabilities, including handicraft training for the blind and the distribution of wheelchairs and carts by the Ministry of Social Affairs.

The Ministry of Social Affairs continued to work with Handicap International during the year to provide treatment, surgeons, and prostheses to persons with disabilities. For example a \$24,660 (12.7 million CFA francs) physiotherapy center for persons with disabilities continued to operate in Dekoa, 160 miles northeast of Bangui.

National/Racial/Ethnic Minorities.—The population included more than 80 ethnic groups; many of these groups spoke distinct primary languages and were concentrated regionally outside urban areas. The largest ethnic groups were the Baya (33 percent of the population), the Banda (27 percent), the Mandja (13 percent), and the Sara (10 percent). The nomadic and semi-nomadic M'bororo, also known as Bush Fulanis or Peulhs, comprised approximately 7 percent of the population but played a preponderant role in the economy; they were involved in mining development and remained the most important cattle breeders in the country.

Between January and December, as a result of numerous attacks and kidnappings by unidentified armed groups, between 3 thousand and 10 thousand M'bororos reportedly fled to Cameroon from the northwest, primarily from Ouham-Pende and Nana-Mambere prefectures, according to UN agencies and local human rights groups. Some sources said the attacks were indiscriminate acts committed by criminal elements and ex-combatants; other sources, however, said local militias were targeting the M'bororo on account of scarce land resources and the perceived wealth of the M'bororo. The German-based Society for Threatened Peoples said the attackers were equipped with lists of the names of villagers and had kidnapped more than one thousand children during the year to extort a ransom from their relatives. According to several sources, the M'bororo reportedly secured the liberation of their children by paying ransoms of between \$911 and \$5,466 (500 thousand and 3 million CFA francs), which they often could only finance by selling their entire cattle herds. Parents of the kidnapped children reportedly often did not contact security forces for fear that the kidnappers would retaliate by killing the abducted children. The Norwegian Refugee Council reported that in April, 3 thousand cattleherders fled the country to Cameroon to escape such attacks. The UNHCR confirmed that 3 thousand refugees from the CAR, mostly M'bororos, had been registered in the Adamawa Province of Cameroon and that armed groups had conducted massive attacks on the M'bororo population on the Cameroonian side of the border.

The assailants most often targeted the city of Bouar, 280 miles northwest of Bangui, its environs, and the town of Baoro, 37 miles from Bouar; however, other areas in the northwest, such as the Ombella-Mpoko prefecture, were also affected. For example on April 4, on a road close to the Ombella-Mpoko prefecture town of Yaloke, 155 miles northwest of Bangui, highway bandits abducted 11 M'bororo children; the kidnappers demanded a total ransom of 10 thousand dollars (5.5 million CFA francs).

Major political parties tended to have readily identifiable ethnic or ethnic-regional bases.

According an FIDH report released in the summer of 2004 on the rule of law and impunity in the CAR, the country's leading human rights activists and political figures emphasized that the judicial system subjected members of the Yakoma ethnicity, the ethnicity of former president Andre Kolingba, to significant legal discrimination.

Thousands of Chadians have resided in the country for generations, and many have acquired citizenship. Since a failed coup attempt in 2001, when then-General Bozize fled to Chad with part of the national army, tensions have remained between the Chadian community and those who considered themselves to be native to the country.

Indigenous People.—Despite constitutional protection, there was societal discrimination against Pygmies (Batwa or Ba'Aka), the earliest known inhabitants of the rain forest in the southern part of the country, predominately in Lobaye, Ombella-Mpoko, and Sangha prefectures. Pygmies comprised approximately 1 to 2 percent of the country's population. In general Pygmies had little input in decisions affecting their lands, culture, traditions, and the allocation of natural resources. Indigenous forest-dwelling Pygmies, in particular, were subject to social and economic discrimination and exploitation, which the government has done little to prevent. The government failed to issue and deliver identity cards to Pygmies, which, according to many human rights groups, effectively denied them access to greater civil rights.

Pygmies, including children, often were coerced into agricultural, domestic, and other types of labor within the country. Pygmies often were considered to be the slaves of other local ethnic groups, and when they were remunerated for performing labor, their wages were far below those prescribed by the labor code, and lower than those paid to members of other groups.

During the year the international NGO International Cooperation continued to promote the rights of Pygmies, monitor discrimination, and gain access to public services through the obtainment of birth certificates. Refugees International released a report in 2003 on Pygmies, stating that Pygmies occupied the role of "second-class citizens." The report noted that the popular perception of Pygmies as barbaric, savage, and subhuman had seemingly legitimized their exclusion from mainstream society.

Other Societal Abuses and Discrimination.—The penal code criminalizes homosexual behavior; however, there were no reports that police arrested or detained persons they believed to be homosexual. Societal discrimination against homosexuals existed during the year.

Section 6. Worker Rights

a. The Right of Association.—The law allows all workers to form or join unions without prior authorization, and a relatively small part of the workforce, primarily civil servants, exercised this right. Police forces and judges are allowed to form unions; however, security forces, including the military and gendarmes, are prohibited from forming unions and striking.

A person who loses the status of worker, either through unemployment or retirement, can belong to a trade union and participate in its administration. The labor code requires that union officials be full-time wage-earning employees in their occupation, and that they may conduct union business during working hours, provided the employer is informed 48 hours in advance and provides authorization.

In December riot police closed a trade union's headquarters to prevent a rally (see section 2.b.).

The law expressly forbids antiunion discrimination; however, during the year there were some reports of antiunion discrimination directed toward employees who participated in strikes. Employees can have their cases heard in the Labor Court. The law does not state whether employers found guilty of antiunion discrimination were required to reinstate workers fired for union activities, although employers found guilty of such discrimination legally were required to pay damages, including back pay and lost wages.

b. The Right to Organize and Bargain Collectively.—The labor code provides for the right of workers to organize and administer trade unions without employer interference and grants trade unions full legal status, including the right to file lawsuits, and the government generally respected these rights in practice. However, the minister of labor said police actions in December interfered with government negotiations with striking trade unionists (see section 2.b.). The code provides that unions may bargain collectively, and in practice collective bargaining occurred in the private sector during the year. The government generally was not involved if the two parties were able to reach an agreement. There are no export processing zones.

The country's largest single employer was the government, and government employee trade unions were especially active. In the civil service, the government set wages after consultation, but not negotiation, with the unions; wage levels have remained unchanged for more than two decades. Salary arrears continued to be a severe problem during the year for military personnel and the country's 24 thousand civil servants. The government owed government employees up to 45 months of salary arrears, and the arrears continued to be a major complaint of the unions, which demanded 9 months of arrears for the year and called on the entire civil service to begin a strike on October 12. In an effort to decrease the budget shortfall, the government launched an anticorruption effort in August to identify fraudulent salary claims and "ghost workers" (see section 3), and in September the government announced it would suspend the recruitment of civil servants. Partly as a result of these efforts, the government was able to pay a few months of salary arrears during the year; for example, in September civil servants began receiving salaries owed to them for the month of January. However, civil servants continued to demand the payment of salary arrears and to hold strikes throughout the year.

Unions had the right to strike in both the public and private sectors, and workers exercised this right during the year. To be legal, strikes had to be preceded by the union's presentation of demands, the employer's response to these demands, a conciliation meeting between labor and management, and a finding by an arbitration council that union and employer failed to reach agreement on valid demands. The union also was required to provide eight days' advance written notification of a planned strike. The labor code states that if employers initiate a lockout that is not in accordance with the code, the employer is required to pay workers for all days of the lockout. However, the government has the authority to end strikes because of public interest. The code makes no other provisions regarding sanctions on employers for acting against strikers. During the year there were reports of employer actions against strikers, and in these cases, employees filed complaints with the labor court.

c. Prohibition of Forced or Compulsory Labor.—Although the labor code specifically prohibits forced or compulsory labor, there were reports that such practices occurred (see sections 5 and 6.d.). Prisoners reportedly were forced to work on public works projects without compensation for government officials or magistrates; the prisoners often received shortened sentences for doing so. Pygmies, including children, often were coerced into labor within the country and often treated as slaves (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The labor code forbids the employment of children under 14 years of age; however, the Ministry of

Labor and Civil Service did not enforce the provision, and child labor was common in many sectors of the economy, especially in rural areas. In some cases, the labor code provides that the minimum age for employment could be reduced to 12 years for some types of light work in traditional agricultural activities or home services. The law prohibits children under 18 from performing hazardous work or working at night; however, children continued to perform hazardous work during the year. The labor code does not define the worst forms of child labor.

Reliable statistics on child labor were not available; however, according to data collected by UNICEF between 1999 and 2003, an estimated 56 percent of children between the ages of 5 and 14 were involved in child labor activities at the time of the survey. UNICEF considered a child to be involved in labor activities according to the following classification: children 5 to 11 years old who, during the week preceding the survey, did at least 1 hour of economic activity or at least 28 hours of domestic work; and children 12 to 14 years old who, during the week preceding the survey, performed at least 14 hours of economic activity, or at least 42 hours of economic activity and domestic work combined.

Throughout the country, children as young as seven years old frequently performed agricultural work, often with their parents, during the year. In addition, children often worked as domestic workers, fishermen, and in mines (often in dangerous conditions). An international agency reported that children worked in the diamond fields alongside adult relatives. In Bangui, many of the city's 3 thousand street children worked as street vendors.

In some rural areas, teachers or principals used school children as occasional or part-time labor on farms, ostensibly to teach them how to work the land and raise chickens since many students did not attend school beyond the primary level (see section 5). The schools used the proceeds from the sale of farm produce to purchase school supplies and equipment and to fund school-related activities.

The labor code prohibition of forced or compulsory labor applies to children, although they are not mentioned specifically; however, forced child labor occurred.

The government had extremely few resources to enforce the prohibition against forced labor or child labor laws effectively. The Ministry of Labor and Civil Service had approximately 30 labor inspectors and 2 vehicles to cover the entire country. The loss of the ministry's headquarters to flooding during the year, salary arrears, and the lack of personnel training severely impeded its enforcement capacity.

The country had only two centers, both located in Bangui, that worked to rehabilitate former child laborers and street children and facilitate their reinsertion into the education system. UNICEF, local NGOs, and labor unions continued to call for the allocation of government resources toward the creation of rehabilitation centers and special schools for former child laborers. Labor unions continued to highlight the absence of an inspection regime to prevent child labor and called on the government to launch an awareness campaign to sensitize parents to the risks of child labor.

e. Acceptable Conditions of Work.—The labor code states that the minister of labor must set minimum wages in the public sector by decree. The minimum wage varies by sector and by kind of work. For example the monthly minimum wage was equivalent to approximately \$12 (6,519 CFA francs) for agricultural workers but approximately \$28 (15,211 CFA francs) for office workers. The minimum wage did not provide a decent standard of living for a worker and family, and wage levels had not changed in more than 20 years. Most labor was performed outside the wage and social security system (in the vast informal sector), especially by farmers in the large subsistence agricultural sector.

The law sets a standard workweek of 40 hours for government employees and most private sector employees. Household employees may work up to 52 hours per week. The law also requires a minimum rest period of 48 hours per week.

There are general laws on health and safety standards in the workplace, but the Ministry of Labor and Civil Service neither precisely defined nor actively enforced them. The labor code states that a labor inspector may force an employer to correct unsafe or unhealthy work conditions, but it does not provide the right for workers to remove themselves from such conditions without risk of loss of employment.

CHAD

Chad is a centralized republic with a population of approximately 9,826,000. Political power remains concentrated in the hands of a northern oligarchy composed of the president's Zaghawa ethnic group and its allies. The executive branch effectively dominated the legislature and judiciary, thereby eliminating potential challenges to a culture of impunity for the ruling minority. President Idriss Deby, leader of the

Patriotic Salvation Movement (MPS), has ruled since taking power in a 1990 rebellion. He was reelected president in 2001; however, fraud including widespread vote rigging and other local irregularities marred that election and the 2002 legislative elections.

During the year the security situation in the East grew increasingly tenuous due to the conflict in the Darfur region of Sudan on the country's border, the growing number of rebels that were operating in the East, and incursions by *janjaweed* (Sudanese militias) and bandits. The government continued its attempts to negotiate with the rebel group Movement for Democracy and Justice in Chad (MDJT) to end the rebellion in the northwest Tibesti region. Growing insecurity along the southern border shared with the Central African Republic (CAR) resulted in additional refugee flows into the country.

Civilian authorities did not maintain effective control of the security forces, elements of which frequently acted independently of government control. Security forces committed or sanctioned serious human rights abuses. The government's human rights record remained poor. The following human rights problems were reported:

- limitation of citizens' right to change their government
- extrajudicial killings, torture, beatings, and rapes by security forces
- near total impunity for human rights abuses committed by members of the security forces
- politically motivated disappearances
- arbitrary arrest and detention by security forces
- harsh and life-threatening prison conditions and lengthy pretrial and post-sentence detention
- executive interference in the judiciary and lack of judicial effectiveness
- official infringement of privacy rights including illegal searches, confiscation, and wiretaps
- limits on freedom of speech and the press, including harassment and detention of journalists, and on freedom of assembly
- widespread official corruption
- violence and societal discrimination against women, including the widespread practice of female genital mutilation (FGM), and child abuse
- slavery
- trafficking in persons
- forced labor, including forced child labor, and other abusive child labor

The government took some steps toward addressing the human rights situation, including creating a new ministerial post for human rights, releasing 500 prisoners, most of whom had been awaiting trial, and removing from the security services approximately 60 members of the former Directorate of Documentation and Security identified in a Human Rights Watch (HRW) report as human rights abusers.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Government agents committed politically motivated killings, and officially sanctioned extrajudicial killings of suspected criminals by security forces continued. Local human rights organizations estimated that arbitrary and unlawful killings by security forces were widespread. Extrajudicial killings rarely were directed centrally, and they most often occurred outside the capital, where there was less control over security forces. The government rarely prosecuted or punished members of the security forces who committed killings. For example, on October 7 in Krim Krim, gendarmes killed two persons after they had refused to pay a bribe. No action was taken against the perpetrators.

During the year security forces committed numerous killings during apprehensions or of persons in custody. In April prison guards killed a prisoner trying to escape from the prison in Bongor. During the year the use of excessive force by security forces resulted in numerous deaths.

On January 20, members of the nomadic guard (GNNT) fired on traders coming from Nigeria, killing one and injuring two. The governor of Lac-Kanem arrested the perpetrators, but there were no further developments in the case at year's end.

In March in Lac-Kanem, unidentified armed men in military uniforms fired on herders, killing two and injuring two. Government authorities were notified but took no action.

In April gendarmes killed Saleh Baharadine, a driver at the National Hospital in Abeche. There was no investigation into the killing.

Security forces killed refugees after they came under attack in refugee camps in May (see section 2.d.).

There were no developments in the 2004 incidents of the GNNT killing of a customs agent, of unidentified men in military uniforms attacking traders in the eastern part of the country, or the killing by gendarmes of two persons in Tandjile West.

Landmines laid by government, rebel, and foreign forces in previous years caused numerous deaths and injuries during the past three years. The government's demining program cleared approximately 2,115 square miles of mines between 2000–05. The government and its international partners destroyed more than 19 thousand mines, 141 thousand items of unexploded ordnance, and 106 bombs. During the year 12 persons suffered severe accidental injuries from landmines.

Armed bandits continued to operate on many roads, assaulting, robbing, and killing travelers; some perpetrators were identified as active duty soldiers or deserters.

In January unidentified assailants attacked the governor of Ouaddai as he was traveling near Adre. The governor's security detachment killed two of the gunmen. Families of the dead gunmen demanded compensation and threatened the governor's life.

On April 18, armed bandits attacked the sub-prefect of Adre. There was no investigation or arrests in the case.

In May armed bandits killed two employees of a nongovernmental organization (NGO), including the son of the prefect of Mobroum. The bandits also stole \$400 (FCFA 200 thousand). There were no arrests in the case.

Interethnic fighting resulted in numerous deaths (see section 5).

b. Disappearance.—There were reports of politically motivated disappearances during the year. These occurred particularly between September and December, in connection with alleged mutiny attempts, military desertions, and political defections, and also attacks carried out on two military installations in November.

Local human rights groups reported that in May, 46 air force officers, who reportedly opposed holding the public referendum on constitutional revisions, were arrested and sent to the northern part of the country. Human rights groups believed the officers were killed, and the government offered no evidence to counter these allegations.

In June the military arrested Naguili Delphine for unknown reasons; by year's end he had not been found.

In August, 13 to 15 army colonels were arrested. Some may have been moved to N'Djamena for questioning, but their whereabouts remained unknown at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices, members of the security forces tortured, beat, abused, and raped citizens. Impunity for those who committed human rights abuses remained widespread.

In January members of the presidential guard shot and injured two Independent National Electoral Commission (CENI) agents. The then minister of defense had the soldiers arrested. At year's end one soldier had escaped from the prison in N'Djamena and the other remained in prison awaiting trial.

In March gendarmes arrested and tortured a herder, Adelrahman Abakar, in Salamat. He had failed to acquire the necessary legal travel documents from gendarmes before moving his cattle through the area and refused to pay a bribe. No action was taken against the gendarmes.

According to the Chadian League of Human Rights (LTDH), in April gendarmes arrested and beat Malloum Ali in Bol, and the chief commandant of the gendarmerie brigade ordered his fingers to be cut off.

Also in April members of the nomadic guard arrested and tortured a government official in Adre. He had refused to provide an official car to transport troops for the governor's motorcade. Authorities took no action against the guard members.

In August police castrated a man after a dispute over a woman. The officers involved paid for the man's treatment. No further action was taken against the police officers implicated.

By year's end no action had been taken against the soldiers who harassed local citizens in Chagoua in 2003.

Unlike the previous year, there were no reports that members of the security forces threatened and beat officials of the local power and water utilities when their services were cut or reduced during shortages. However, power company officials used military and police escorts when investigating and turning off power to illegal power users, some of whom were members of the security forces.

Security forces beat a journalist and an NGO member during the year (see sections 2.a. and 4).

On March 17, members of the military arrested and beat Maxime Allarasse of the private Catholic radio station in Moundou.

No action had been taken against the perpetrators in the shooting and serious wounding in June 2004 of herders in Kanem.

During the year police and gendarmes continued to rape women in custody.

FGM continued to be a problem (see section 5).

Prison and Detention Center Conditions.—Prison conditions remained harsh and life threatening. Prisons were seriously overcrowded, had poor sanitation, and provided inadequate food, shelter, and medical facilities. As a result of inadequate record-keeping and management, many individuals remained in prison after completing their sentences or after courts had ordered their release.

Local human rights organizations continued to report on the existence of military prisons and prisons run by the immigration service, to which access was prohibited. It was unknown who was detained in these prisons and for what reasons they were held.

While the law provides that a doctor must visit each prison three times a week, this provision was not respected. Although the law authorizes forced labor in prison, human rights organizations reported that it did not generally occur in practice.

There were reports that prisoners died from negligence. On March 13, two prisoners in Bongor died as the result of poor medical treatment.

Juvenile males were not always separated from adult male prisoners. In some cases juvenile males were held with female prisoners. Pretrial detainees were held with convicted prisoners.

The government permitted the International Committee of the Red Cross (ICRC) to visit most civil prisons on a regular basis, except for secret prisons operated by the National Security Agency (ANS), gendarmerie, and police. The ICRC conducted such visits during the year. The government provided the NGO Chadian Association for the Promotion of Human Rights (ATPDH) with a permanent authorization notice to visit civil prisons at any time, without need to provide advance notice. Other NGOs, including human rights groups, were required to obtain authorization from a court or from the director of prisons; such authorizations depended largely on the personal inclinations of those with authority to grant permission. ICRC confirmed the existence of illegal prisons run by the gendarmerie, the ANS, and the police and requested access to them; however, no access was granted. Persons were also secretly kept in regular jails. Organizations were not allowed access to military prisons.

d. Arbitrary Arrest or Detention.—Although the law prohibits it, security forces continued to use arbitrary arrest and detention.

Role of the Police and Security Apparatus.—The National Army (ANT), gendarmerie (a military police force), national police, GNNT, and ANS are responsible for internal security. The ANT, gendarmerie, and GNNT report to the Ministry of Defense; the national police reports to the Ministry of Public Security and Immigration, and the ANS reports to the president. In August the Ministry of Defense was placed under the direction of the presidency. Officers from President Deby's ethnic group and closely allied ethnic groups dominated the ANS and republican guard. During the year the ANT and gendarmerie were deployed in the Northwest to fight MDJT rebels, in the East to maintain security along the border with Sudan, and to the South where growing insecurity along the border shared with the CAR led to additional refugee inflows.

The police force was centrally controlled, but exercising oversight, particularly outside of N'Djamena, was difficult. Police officials who committed human rights abuses generally enjoyed impunity. Government officials publicly acknowledged the country's growing internal security problems, which resulted in part from the inability of the national police in N'Djamena and in the regions to counter widespread banditry, particularly outside of N'Djamena, and the proliferation of arms resulting from a succession of civil wars. The government often allowed months to pass before it paid police force members, and corruption was widespread.

Arrest and Detention.—Persons were arrested and detained both openly and secretly, and arbitrary arrest and detention were a problem.

While the law requires police to obtain a warrant signed by a judicial official before arresting a person, the government often did not respect this requirement. The law requires both access to bail and access to counsel, but neither was regularly provided. Few detainees had the means to pay for private counsel, and incommunicado detention was a problem.

Detainees were not promptly informed of charges, and judicial determinations were not made promptly; this was a major cause of prison congestion.

The law states that legal counsel should be provided for indigent defendants and that defendants are to be allowed prompt access to family members and counsel; however, in practice this usually did not occur.

In March the chief commandant of the ANS in Dourbali arrested and detained Adam Mahamat, although by law the ANS does not have police arrest powers. No reason for the arrest was given, but human rights groups believed he was arrested because of his connections with suspected rebels. The commandant confiscated \$556 (FCFA 278 thousand) from Adam.

In April the chief police commandant arrested Ahmat Nagrtoloum, an employee of the Ministry of Finance in N'Djamena. Human rights groups were denied access. He was jailed allegedly for corruption but had not been charged by year's end.

Army colonel Saoua was arrested and sent to Bardai in November 2004 for questioning on suspicion of being involved in coup activity; he was allowed free movement there but could not leave Bardai. He had not been charged by year's end.

In November the government arrested at least 30 people in connection with attacks on two military camps. They remained in ANS custody at the end of the year. Family members reported that many of them were arrested because they were relatives of suspected perpetrators. There were several reports that the government continued to make arbitrary arrests connected to the deteriorating security situation.

There were no further developments in the 2004 cases in which gendarmes beat and robbed a man and also arrested herders in Kerfi.

Security forces continued to conduct searches, mostly in N'Djamena but also outside the city, and increased security operations along the eastern border with Sudan. Police at times arrested journalists and NGO officials who criticized the government (see sections 2.a. and 4).

Lengthy pretrial detention remained a problem. Of the 3,416 prisoners, 1,980 were awaiting trial. Persons accused of crimes could be imprisoned for several years before being charged or tried, particularly those who were arrested in the provinces for felonies and transferred to the overcrowded prison in N'Djamena. The human rights minister reported that approximately 965 prisoners in the central prison were still awaiting judgment at year's end. Approximately half of them had been tried and were awaiting sentencing; the other half were awaiting trial.

e. Denial of Fair Public Trial.—The judiciary was ineffective, underfunded, overburdened, vulnerable to acts of intimidation and violence, and subject to executive interference. In practice government officials and other influential persons often enjoyed immunity from judicial sanction. Members of the military, in which the president's Zaghawa ethnic group figured prominently, continued to enjoy a particularly high degree of immunity from prosecution.

During the year members of the judiciary received death threats or faced demotion or removal from their positions for not acquiescing to pressure from corrupt officials. On March 4, an appeals court ruled in favor of the local buyer in a long-standing real estate dispute. Despite this finding, the minister of justice ordered the police to evict the buyer from the property. On March 11, the appeals court judge was demoted two grades and reassigned outside the capital.

The appeals court judges who in July ruled in favor of arrested journalists also came under significant government pressure to reverse their decision; however, the judges held firm.

There were no further developments in the case of the October 2004 killing of Daynguirim Etienne, a magistrate in Abeche. By year's end the alleged assailant was in custody.

At the national level, a Supreme Court, constitutional court, and court of appeals exist; however, some of their members were appointed by the government rather than elected by citizens as required by the law, which weakened the independence of the courts. The constitutionally mandated high court of justice could try high-ranking government officials; only the national assembly, which had taken no action on cases by year's end, could submit cases to this court.

The judicial system included courts located in provincial capitals. Two additional appeals courts were established during the year, bringing the total number to three, located in N'Djamena, Moundou, and Abeche.

The law mandates that the Superior Council of Magistrates recommend judicial nominations and sanction judges who commit improprieties. There were no such cases during the year, because continuing problems between the government and magistrates prevented any sanctions for being considered or carried out. During the year a new five-judge judicial oversight commission, similar in function to the superior council, began conducting investigations of judicial decisions and addressing

suspected miscarriages of justice. However, in contrast to the superior council, the president appointed members of the commission, which increased executive control over the judiciary and decreased the authority of the superior council. Parties to judicial cases could appeal to the commission.

Trial Procedures.—Applicable law was sometimes confusing, as courts often tended to blend the formal French-derived legal code with traditional practices, and customary law often continued in practice to overrule Napoleonic law. Residents of rural areas often lacked access to formal judicial institutions, and legal reference texts were not available outside the capital. In most civil cases, the population relied on traditional courts presided over by village chiefs, canton chiefs, or sultans. However, decisions could be appealed to a formal court.

Defendants are presumed innocent until proven guilty, but in practice many judges assumed a suspect's guilt, particularly in crimes involving rape or theft. Cases are heard as public trials, and defendants have the right to appeal any decision. Defendants, their lawyers, and judges are permitted by law to question witnesses.

The law states that indigents should be provided promptly with legal counsel; in practice, this seldom occurred. Human rights groups sought to improve this situation, and sometimes provided free counsel themselves.

The Muslim concept of *dia*, which involves a payment, based on the decision of local leaders, to the family of a murder victim or other victim of a crime, was practiced widely in northern Muslim areas. Non-Muslim groups, who supported implementation of a civil code, challenged the use of the *dia* system, arguing that it was incompatible with the constitution. Such groups further accused the government of supporting *dia* practices by permitting the existence of local tribunals. No resolution was reached by year's end.

Political Prisoners.—Human rights organizations reported beginning in September that there were political prisoners during the year. Military and military family defections and increased rebel activity occurred from September to December, and the government rounded up suspects and kept them in prison during their investigations. The whereabouts of some individuals arrested on suspicion of subversive activities were unknown at year's end. There were several military and immigration prisons, but human rights or other organizations were denied access.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—While the law prohibits such actions, authorities used illegal searches and wiretaps and monitored the contents of private mail. The law also allows authorities to conduct searches of homes only during daylight hours and with a warrant, but security forces ignored these provisions and conducted unlawful searches at any time they wished. Security forces also regularly stopped citizens and extorted money or confiscated belongings.

The government engaged in wiretapping without judicial authorization, monitored private mail through the postal service, and monitored private e-mail through the main post office server.

In October, November, and December, the government ordered the two cellular networks to shut down for short periods for "national security reasons."

The military and police officials conducted searches and confiscations of Thuraya satellite telephones, including those of NGOs, international organizations, and diplomatic vehicles.

There were occasions when police officers arrested family members of suspects. In June gendarmes put a woman and her one-year-old baby in prison when they could not locate her husband whom they sought to arrest. That same month gendarmes in Krim-Krim arrested and detained Medji Allah because of a debt owed by his 21-year-old son.

There were no new developments in the reported 2004 or 2003 cases of government agents who arbitrarily interfered with privacy, families, or homes.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Although the law provides for freedom of speech and of the press, the government limited these freedoms in practice and intimidated journalists and publishers. The government did not restrict academic freedom.

Individuals who publicly criticized the government often faced official reprisal. There were reports that the government attempted to control criticism by monitoring meetings of the political opposition, and there were reports that the government attempted to intimidate its critics.

The government owned the newspaper *Info Tchad* and influenced another, *Le Progres*, but it did not dominate the press. A number of private newspapers, many

of which were critical of government policies and leaders, were published and circulated freely in the capital.

Due to widespread illiteracy and the relatively high cost of newspapers and television, radio remained the most important medium of mass communication. The government-owned Radiodiffusion Nationale Tchadienne had branches in N'Djamena, Abeche, Moundou, Sahr, and Taya. There were numerous private radio stations, including several owned by religious organizations (there were 86 Christian stations and 2 Muslim ones) that broadcast throughout the country.

The licensing fee set by the High Council for Communications (HCC) for a commercial radio station remained prohibitively high at approximately \$10 thousand (FCFA 4,972,000) per year, 10 times the fee for radio stations owned by nonprofit NGOs. Both stations run by nonprofit groups and commercial ones were subject to close official scrutiny.

The government owned and operated Teletchad, the only domestic television station, but did not interfere with private channels.

The government harassed and detained journalists during the year. Five journalists were imprisoned on the grounds that their reports allegedly jeopardized national security. Libel law was used to suppress criticism of political leaders, and during the year the government arrested several journalists for defamation. A July appeals court decision that the government had improperly brought defamation charges was ignored. The journalists were rearrested and sentenced to prison. On May 27, authorities charged the editor of the independent newspaper *Le Temps*, Michael Didama, with manipulating information from the eastern region to impugn the reputation of the government for having published a photograph, taken from a reportedly antigovernment Web site, allegedly of a massacre at Ouadi Hamra.

On June 4, ANS personnel detained the editor of *l'Observateur*, Samory Ngarandoumbe, for publishing an open letter from the Kreida ethnic group in which they complained about poor treatment by the Zaghawa. Samory was turned over to the judicial police (a branch of the National Police which investigates and prepares charges for the courts), which first released him on June 6, then subsequently rearrested and tried him on July 11. He received a sentence of 3 months in prison and was ordered to pay a \$200 fine (FCFA 100 thousand). On September 9, Samory, whose case was on appeal, was released until his trial session on September 22, when he was acquitted.

On July 11, authorities sentenced freelance journalist Garonde Djarma to 3 years in prison and fined him \$5 thousand (FCFA 2.5 million). He was charged with defamation and inciting racial hatred for providing an interview to *l'Observateur* editor Sy Koumbo Singa Gali. On July 20, authorities arrested Gali and charged her with inciting ethnic hatred for having published the interview with Djarma in which he claimed that his arrest was "janjaweed (Arab militia) trickery". On August 15, Gali was found guilty and sentenced to a year in prison and ordered to pay a fine of \$200 (FCFA 100 thousand).

On September 6, Laïssou Bagmla, a reporter for *l'Observateur*, was arrested for defamation and held for two days before being released.

On September 26, an appeals court freed Gali, Samory, and Didama after finding that they had been incorrectly charged. Didama could still face charges of "inciting ethnic hatred." Djarma was freed earlier in September.

Some journalists in the rural provinces reported that government officials warned them not to engage in any contentious political reporting. In addition some domestic journalists claimed that the government restricted their ability to cover some events or visit certain locations and limited their access to high-ranking officials, restrictions that the government did not impose on foreign journalists.

The government placed limits on radio broadcasting. On May 4, the HCC issued an order prohibiting private radio stations from broadcasting political debate concerning the referendum. The HCC stated that it would use a list to determine the order for the public service broadcasting of their messages. In effect, each of the 74 political parties would only get one broadcast due to the high number of parties in the rotation. It was a way to limit and dilute the messages of the opposition parties. The parties' messages needed to be registered well in advance of their broadcast in the presence of a member of the HCC. Any message carried in a language other than French or Arabic was required to be reviewed 48 hours in advance.

The independent media protested this measure in court, and on May 25, the Supreme Court suspended the HCC's prohibition. On May 27, HCC Chairman Moussa Dago announced that the court decision did not affect the HCC regulation which states that radio stations operated by community and private associations cannot broadcast political messages. Most opposition parties praised the Supreme Court's decision but noted that it came too late to make a difference in the referendum out-

come and that the government had effectively silenced independent radio for most of the campaign period.

On May 19, the HCC closed Radio Brakoss, a community radio station in Moissala in the South, for a third time. It closed the station for airing an in-depth discussion with the board of governors of Radio Brakoss which addressed the activities of *coupeurs de route* (armed robbers), the illegal release of criminals from prison by the gendarmes, and the mistreatment of local citizens by herders and gendarmes, for fear that the broadcast would inflame listeners against the government. Station owner Tchanguiz Vatankah said that local officials threatened his life in the presence of the then interim minister of communications. The HCC ordered that the radio station be reopened in September; the government complied. On September 25, authorities arrested Vatankah but turned him over to the UNHCR and the ICRC on November 29 for relocation outside the country.

In June the governor of Doba warned the local radio station La Voix du Paysan to cease discussing the results of the referendum. Security forces also beat Eliakim Vanambyl, a journalist with the radio station, because he reported the low voter turnout for the referendum.

In July the HCC warned FM Liberte not to broadcast criticism of a speech given by the French ambassador that was critical of the independent media. The HCC later reversed its position and apologized to FM Liberte.

Media owned and controlled by the government were headed by government-selected news directors and subject to government pressure that resulted in informal censorship; however, at times they were critical of the government.

The government used the press code to limit the amount of public broadcasting time allotted to political parties that opposed the public referendum; the Supreme Court ruled this action was illegal.

The government did not restrict access to the Internet but monitored e-mail through the main post office server.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—Although the law provides for freedom of assembly, the government limited this right in practice. Authorities banned demonstrations they expected would be critical of the government, despite being notified five days in advance as required by law; however, they permitted demonstrations they presumed would support the government and its policies.

Throughout the year the police regularly disrupted student gatherings.

Unlike in previous years, there were no reports of security forces using excessive force against demonstrators.

There were no developments in the 2004 or 2003 cases of abuse resulting from the use of excessive force by security forces against demonstrators.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion.—While the law provides for religious freedom, at times the government limited this right. The law also provides for a secular state. Senior government officials were predominantly Muslim, and some policies in practice favored Islam. For example, the government sponsored annual hajj trips to Mecca for certain government officials.

The Islamic religious group Faïd al-Djaria remained banned at year's end on the grounds that its religious customs, including the singing and dancing together by men and women in religious ceremonies, were allegedly un-Islamic.

Although the different religious communities generally coexisted without problems, there were reports of tensions within the Muslim community between the High Council for Islamic Affairs (a government-sanctioned, nongovernmental body) and radical elements within the community. There also was occasional tension between Christians and Muslims. However, during the year there were regular meetings between key religious leaders to discuss peaceful collaboration among groups.

Societal Abuses and Discrimination.—There was no known Jewish community. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—Although the law provides for these rights, the government in practice imposed some limits. The Ministry of Territorial Administration required an "authorization for circulation" for foreign travelers, including humanitarian agency personnel, intending to visit the eastern part of the country, due to growing insecurity in the region. The travel permits were not restrictive but required travelers to allow

between three and five days to obtain them. Authorities also required foreigners to register upon arrival with immigration authorities in Abeche.

Elements of the security forces, rebels, and bandits continued to maintain roadblocks throughout the country, extorting money from travelers and often beating and in some cases killing them. However, the number of roadblocks decreased significantly after the minister of territorial administration banned them.

There was no further investigation or action taken in the 2004 harassment of the national assembly president or in the 2003 assault by security forces on an expatriate businessman.

Tension along the border with the CAR continued to hinder free movement in the region. During the year bandits from the CAR continued to enter the country and attack citizens, despite an agreement by government officials of both countries to stem insecurity along the border and seize weapons held illegally by militias, herders, and other individuals.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status and consequently is not in compliance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government also provided protection to certain individuals who may not qualify as refugees under the convention or its protocol. An official national structure, the National Committee for Welcoming and Reinsertion of Refugees, handled returning citizens who had been refugees in other countries and foreign refugee matters.

The government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The UNHCR and the government worked together to identify safer sites for refugee camps a safe distance from the Sudanese border and the conflict in the Darfur region of western Sudan. According to the UNHCR, the country hosted approximately 220 thousand Sudanese refugees from Darfur, 200 thousand of whom were located in 12 camps along the eastern border with Sudan. There were also an estimated 40 thousand refugees from the CAR and small numbers from the Democratic Republic of the Congo.

In May five refugee camps were closed to humanitarian workers after attacks on aid workers resulted in the deaths of several refugees and gendarmes and injuries to refugees and humanitarian workers.

There were no additional developments concerning reports in 2003 that soldiers in the southern border town of Gore harassed, beat, and stole from refugees fleeing the CAR.

Antirefugee sentiment among citizens living in refugee-affected areas was high due to competition for local resources—wood, water, and grazing land—and the provision of goods and services to Sudanese refugees that were not also made available to the local population. There continued to be reports that citizens attacked refugees and destroyed their wells out of frustration and fear of resource shortages. The UNHCR, in collaboration with local government authorities, created committees consisting of refugees and local residents to discuss resource and other contentious issues with the aim of mitigating tensions. They were successful in diminishing the level of tensions and bringing resolution to some issues between the two groups.

The UNHCR and its partner organizations expressed concern about the possibility of the militarization by Sudanese and Chadian rebels of the refugee camps, particularly one located much closer to the border than the others. During the year the UNHCR invited a committee of experts on refugee security to visit the camps. The experts determined that the camps were not militarized and found no evidence of attacks being launched from them. Proximity to the border for two camps remained a problem, but following the UNHCR visit in August, the government agreed to move Oure Cassoni and Am Nabak camps to safer locations. During the year the number of gendarmes deployed outside the refugee camps to protect the refugees from outside threats was increased.

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

Although the law provides citizens with the right to change their government, the government continued to limit this right in practice. The executive branch dominated the other branches of government.

Elections and Political Participation.—On June 6, the government held a public referendum on constitutional amendments, approval of which abolished presidential term limits, abolished the nonexistent senate, and created a Social and Economic

Council with members to be appointed by the president. On July 7, the Constitutional Council, after reviewing the results, nullified voting in 3,007 of the 10 thousand electoral districts. It cited a number of irregularities, including nonrespect for prescribed voting hours, discrepancies between the number of registered voters and votes cast, discrepancies between votes cast and counted, the lack of final tally sheets in some areas, lack of required signatures, and multiple voting by nomadic herders. The council also cancelled the votes cast abroad because the voter register was not published at least 30 days before the election. In July the council announced a participation rate of 57.8 percent with 65 percent of votes cast in favor of the constitutional changes.

Communal elections were not held in late 2005 as originally planned.

The outcome of the 2002 legislative election, in which President Deby's MPS party won a majority of national assembly seats, was largely determined in advance through ruling party manipulation, and voting was impacted by inaccurate voter lists, due primarily to a faulty electoral census that the government refused to revise. Local NGOs reported numerous voting irregularities.

According to several observers, President Deby's first-round victory in the 2001 presidential election was marred by irregularities. While monitoring the voting process, unofficial observers from local human rights and civil society groups were assaulted in polling stations. In addition, prior to and following the presidential election, several incidents of abuses against opposition supporters and candidates took place, and the government restricted media coverage.

There were an estimated 70 political parties in the country. Parties allied with the regime generally received favorable treatment. Opposition political leaders have accused the government of co-opting their most popular local politicians to run as MPS members in local elections and also alleged intimidation by the military of those party members who refused to cooperate. Northerners, particularly members of the Zaghawa ethnic group, including the Bideyat subclan to which the president belongs, continued to dominate the public sector and were overrepresented in important posts in key institutions of state power, including the military officer corps, elite military units, and the presidential staff.

There were 6 women among 32 ministers in the cabinet. There were 10 women in the 125-seat National Assembly, and 2 members of the 25-member CENI were women.

Government Corruption and Transparency.—Corruption continued to be a serious problem. The presidency continued to fight the problem of “phantom soldiers” whereby some officers in the security forces continued to collect government payments for several thousand nonexistent subordinates. Between April 15 and 20, the military conducted an internal review. Some participants identified corruption among some officers as a problem. The exercise identified tribalism, inadequate pay, and a disproportionately high officer-to-soldier ratio as sources of the problem.

The Ministry for Moralization and State Control, created in July 2004, began a public awareness campaign by running radio spots highlighting the dangers of corruption. The minister met with religious leaders and school directors to discuss and heighten awareness of the importance of strong moral values in the fight against corruption. The ministry was developing ethics regulations and an enforcement process with each ministry. The ministry surveyed citizens about corrupt practices and corrupt officials to better focus its efforts against corruption.

In August there were reports that the government began seizing vehicles and other government property from ex-ministers and ruling party members. Allegations over misappropriation of government funds were cited as reasons behind the August 7 cabinet reshuffle.

In September the former head of CENI was arrested and was being prosecuted for signing false paperwork to authorize the import of vehicles.

In July the *college du surveillance et controle des revenus petrolieres* (College for the Monitoring and Control of Oil Resources, or CCRSP) issued its first report on accounting for social and economic improvement projects funded with oil revenues. It identified many deficiencies in the execution of projects, including contract delays, nondelivery of goods, poor quality of projects, lack of communication between priority sector ministries and local authorities, and corrupt practices, such as double-charging for services. The priority sector ministries are responsible for correcting the faults. By year's end, the government had not taken action on the report.

The World Bank and CCRSP members expressed concern over the government's circumvention of normal contracting procedures funded by oil revenues. Legally, the prime minister can request an exemption from procedures in cases of extreme urgency or where there is only a sole-source provider for a service. However, after several such requests to circumvent the competitive contracting procedures, the CCRSP wrote a letter of protest to the prime minister asking that he withdraw his requests.

In December the government amended the oil revenue management law to increase the percentage of oil revenues going directly into the national treasury from 15 to 30 percent; added security, territorial administration, and justice as priority sectors; and abolished the Fund for Future Generations. The revision also placed oil revenues from three newly developed fields under supervision of the CCRSP and extended the mandate of the members.

In July the government approved a plan to modernize and streamline its budgetary process to improve efficiency and transparency. The plan creates ethics committees within the Ministry of Moralization to monitor the budgetary process and organize public meetings among officials on the negative effects of corruption.

The law does not provide for public access to government information; in practice the government provided access to government-employed journalists, but independent media journalists complained during the year that they did not have sufficient access to government information. The government's low capacity to retrieve and store information was a problem; however, the government mandates that the proceedings of some ministerial meetings be broadcast over the radio or published in *Info Tchad*, a government newspaper.

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

The government obstructed the work of domestic human rights organizations during the year through arrest, detention, and intimidation; however, such groups were able to investigate and publish some findings on human rights cases. Government officials generally were accessible to human rights advocates but unresponsive or hostile to their findings.

There were two principal local human rights organizations: the Chadian Association for the Promotion of Human Rights (ATPDH), and the LTDH. These and smaller human rights organizations worked closely together through an umbrella organization, the Association for Human Rights, and their activities included observing government detention practices, assisting individuals who have suffered human rights abuses, and holding public conferences and seminars. These sessions addressed press freedom and arrests of journalists, relocation of residents of local neighborhoods, transparency of oil revenues, disappearances of individuals, and the socio-political situation and its impact on human rights.

Despite pressure from the government, human rights groups were outspoken and often partisan in publicizing abuses through reports, press releases, and the print media, but only occasionally were they able to intervene successfully with authorities. There was a perception that most local human rights groups were composed mainly of political opponents of the government, which weakened their credibility with the government and some international organizations.

In April GNNNT members attacked and destroyed a shop owned by Daoud Saboune. He said that the minister of public security had threatened him for reporting the case to the LTDH.

In July authorities jailed Daniel Passalet, president of Human Rights Without Borders, after he expressed his opposition in court to a verdict regarding the journalists arrested in July. He was released after 24 hours.

During the year the government did not totally restrict international human rights organizations, such as Amnesty International, and permitted more investigative activity. However, the government, particularly at the local level, placed obstacles in the way of efforts by NGOS and made it more difficult for them to do their work.

Personnel from international human rights organizations traveled regularly through the country to investigate atrocities in Sudan. The government allowed access to the eastern region for employees of the International Criminal Court who were investigating charges of war crimes and crimes against humanity in Sudan.

Belgian courts continued their investigation of crimes against humanity committed by former Chadian president Hisssein Habre during his rule from 1982 to 1990. In September a Belgian court announced an indictment of Habre, and the government of Senegal announced that it would extradite Habre to Belgium, but extradition had not taken place by year's end.

In July and August the government responded to a letter from HRW in which it complained of the presence of former members of Habre's security services in current government positions. The president issued a decree to remove all such former agents from the government. Approximately 60 officials were removed by year's end.

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

While the law prohibits discrimination based on origin, race, religion, political opinion, or social status, the government did not effectively enforce these provisions.

Cultural traditions kept women subordinate to men. The government favored its ethnic supporters and allies. Societal discrimination continued to be practiced against homosexuals, those afflicted with HIV/AIDS, and members of nonfavored ethnic groups.

Women.—Although the law prohibits violence against women, domestic violence against women, including spousal abuse, was common. Wives traditionally were subject to the authority of their husbands, and they had limited legal recourse against abuse. Although family or traditional authorities could provide assistance in such cases, police rarely intervened.

The law prohibits rape, prostitution, and spousal abuse, but all were problems. There were reports that family members killed women for breaking social taboos. For example, a girl cannot visit the site of initiation before the ceremony takes place. If she does, the village leaders can kill her.

The law prohibits violence against women, including the practice of female genital mutilation (FGM); however, FGM was widespread and deeply rooted in tradition. According to a 2004 government report by the National Institute of Statistics, Economic and Demographic Studies, 45 percent of local women had undergone excision. The rates of FGM by ethnic groups included: Arabs (95 percent), Hadjarai (93 percent), and Oauddai (90 percent). Lower percentages were reported among the Sara (38 percent) and Gorane (2 percent). According to the survey, 70 percent of Muslim females and 30 percent of Christian females were subjected to FGM. The practice was prevalent especially among ethnic groups in the East and South. All three types of FGM were practiced. The least common but most dangerous and severe form of FGM, infibulation, was confined largely to the region on the eastern border with Sudan. FGM usually was performed prior to puberty as a rite of passage.

Under the law, FGM can be prosecuted as a form of assault, and charges can be brought against the parents of FGM victims, medical practitioners, or others involved in the action; however, few suits were brought during the year. The Ministry of Social Action and the Family was responsible for coordinating activities to combat FGM. On April 12, a young girl died from infibulation in Ndilambaye. Gendarmes arrested the perpetrators, who were fined two thousand dollars (FCFA one million).

Although the law prohibits prostitution, pimping, and owning a brothel, prostitution was a problem, particularly in the southern oil-producing region. The law provides for prison terms of 2 months to 2 years and a fine of \$100 (FCFA 50 thousand) to \$1 thousand (FCFA 500 thousand) for violations.

The law does not prohibit sexual harassment.

Discrimination against women remained widespread. In practice women did not have equal opportunities for education and training, making it difficult for them to compete for the relatively few formal sector jobs. Although property and inheritance laws based on the French code do not discriminate against women, local leaders adjudicated most inheritance cases in favor of men, according to traditional practice.

The exploitation of women was pervasive, especially in rural areas, where women did most of the agricultural labor and were discouraged from seeking formal schooling. Illiteracy was estimated at 66 percent for women, compared to 48 percent for men.

While no law addresses polygyny, spouses may opt at any time to declare a marriage monogamous. If a husband takes a second wife, the first wife has the right to request that the marriage be dissolved; however, she must repay the bride price and other expenses related to marriage. Polygyny became a controversial issue between Muslim and Christian communities during debate over revision of the family code, which remained pending. Issues involved in code revision were contentious; as a result, the Council of Ministers created a committee to propose compromises on controversial issues, such as polygyny and inheritance.

Children.—The government generally supported the activities of NGOs and international donors to improve children's rights and welfare, but the government had few resources to organize its own activities. Although the government continued to increase modestly its assistance to the education sector, it was unable to fund adequately public education and medical care. Government education policy for children and youth focused on increasing classroom facilities and infrastructure.

Although by law education is universal, compulsory, and free from ages 5 through 12, parents complained that they must pay tuition to public schools. Approximately half of teachers were hired and paid by parent-teacher associations, without government reimbursement. The UN Children's Fund (UNICEF) reported early in the year that 46 percent of boys and 33 percent of girls attended primary school. Educational opportunities for girls were limited, mainly because of the traditional role of young girls in household tasks such as obtaining water and wood. The percentage of girls

enrolled in secondary school was extremely low compared with that of boys, primarily because of early marriage.

Child abuse, including abuse of child herders, remained a problem.

FGM was commonly practiced on young girls (see section 5, Women).

Although the law prohibits sexual relations with a girl under the age of 14, even if married, the ban was rarely enforced. Families arranged marriages for girls as young as 12 or 13; the minimum legal age for engagements was 11. The law prohibits forced marriages of minors (defined as anyone under 18) and provides for penalties of 6 months to 2 years imprisonment and a fine of between 100 and 1 thousand dollars (FCFA 50 thousand to 500 thousand). There were some forced marriages, and the custom of buying and selling child brides continued to be a problem. Many young wives were forced to work long hours of physical labor for their husbands in fields or homes.

Several human rights organizations reported on the problem of the *mahadjir* children who attended certain Islamic schools and were forced by their teachers to beg for food and money. There was no reliable estimate of the number of *mahadjir* children. During the year the High Islamic Council held a public meeting with imams from around the country to discuss the treatment of children under Islam.

Trafficking in children was a problem (see section 5, Trafficking).

The law prohibits use of child soldiers, and UNICEF protection officers reported that the practice was not widespread. Although reliable information was difficult to obtain, UNICEF estimated in 2003 that there were approximately 600 child soldiers serving in government security forces and armed groups in the country; however, that number was believed to have decreased during the year and no further confirmed recruitment of children for use as soldiers was reported. However, in late December, unconfirmed reports of forced recruitment of male youths circulated after the government began enforcing a curfew during the holidays, in particular of forced recruitment in N'Djamena and Abeche.

Child labor remained a serious problem (see section 6.d.).

In 2002 UNICEF estimated that there were approximately 10 thousand street children, and in 2003 the newspaper *Le Temps* reported that the number was increasing. Children were on the streets because either one or both parents had died or because parents did not take care of them.

Trafficking in Persons.—Although the law prohibits trafficking in persons, persons were trafficked within the country. Children were trafficked for forced labor, primarily as herders or domestic workers (see section 6.d.). A 2004 NGO survey of 500 child herders who had been returned to their parents indicated that there may have been between 1,500 and 2 thousand children between 6 and 17 years of age who had been trafficked as child herders. Local authorities, religious groups, and NGOs rescued 256 children in 2004–05. There were also reports of child prostitution, primarily in the southern oil-producing region.

The law provides penalties of between 10 months' imprisonment and life-long prison sentences involving hard labor for trafficking violations and between 10 and 20 years of forced labor in prison for the trafficking of children. No economic or financial aid for victims was available unless a court awarded damages. The Ministry of Justice's child protection department continued to cooperate with UNICEF and a few NGOs to combat trafficking.

The government arrested traffickers during the year. In May a citizen was arrested in Kousseri, Cameroon for forcing a child that he had kidnapped from Koumra, Chad to beg in the streets. Cameroon extradited the man to Chad, where he was in jail awaiting trial on kidnapping charges. In August a tip from a taxi driver led police to four children who were being trafficked to Cameroon from the country. The children were discovered in sacks in the back of a transport vehicle. The businessman was arrested and was in jail awaiting trial. The children were returned to their parents. There were no developments in the 2004 case of the appeal by three accused traffickers who were sentenced to hard labor for life by an appeals court, or in the case of a 10-year-old sold in 2004 by her parents to herders.

During the year the government held a seminar with members of the national assembly to raise awareness of the trafficking law, and UNICEF sponsored educational campaigns through the media to advise parents to instruct children about the danger of trusting strangers. The government, working with UNICEF and NGOs, identified cases of trafficking. During the year the Ministry of Justice received funding for its antitrafficking efforts, but it did not have the financial resources to support NGOs. During the year antitrafficking efforts included continued revision of the legal code; training for police, customs, other government officials; and sensitizing civil society to the problem. Victim support was provided at the local level, often through the intervention of local government authorities who transferred victims to the care of religious groups.

The government focused most of its antitrafficking efforts on prevention, particularly by raising citizens' awareness of trafficking. For example, during the year the governor of Moyen Chari, an area that was the source for the majority of children used as cattle herders, continued to increase prosecutions of those complicit in trafficking. He also worked through the region's prefects and sub-prefects to recover children who had been trafficked. Also, the Ministry of Social Action and Family, the Ministry of Labor, and UNICEF conducted meetings with village elders in Moyen Chari to sensitize them to the problem.

Persons with Disabilities.—The law prohibited discrimination against such persons; however, in practice the government operated few therapy, education, or employment programs for such persons, and no laws mandate that buildings be accessible to them. Several local NGOs provided skills training to persons with hearing or visual impairment. During the year the government, in conjunction with NGOs, continued to sponsor an annual day of activities to raise awareness of persons with disabilities. The Ministry of Social Action and Family is responsible for the rights of the disabled.

National/Racial/Ethnic Minorities.—There are approximately 200 ethnic groups, many of which are concentrated regionally and speak 128 distinct primary languages. Although most ethnic groups were affiliated with one of two regional and cultural traditions—Arab and Saharan/Sahelian-zone Muslims in the North, Center, and East; and Sudanian-zone Christian or animist groups in the South—internal migrations in response to urbanization and desertification resulted in the integration of these groups in some areas.

Societal discrimination continued to be practiced routinely by members of virtually all ethnic groups and was evident in patterns of employment, especially across the North-South divide. The law prohibits government discrimination on the basis of ethnicity, although in practice it continued to influence government appointments and political alliances (see section 3). Political parties and groups generally had readily identifiable regional or ethnic bases.

The rebellion by ethnic Toubous of the MDJT in the northwestern Tibesti region lost much of its strength during the past two years, and at year's end the government and the MDJT continued efforts to negotiate an end to the conflict. Sporadic clashes between factions of the MDJT and government forces occurred in September and November. Clashes between herders and sedentary populations and other inter-ethnic violence, often concerning land use, continued to be a serious problem.

In May members of the Zaghawa ethnic group attacked villagers, mainly belonging to the Ouaddai ethnic group, in Ouadi Harmra. The attackers claimed that members of the village did not pay *dia* after the death in April of a family member. Approximately 21 persons were killed and dozens injured.

There were no further developments in the 2004 ethnic clashes or clashes between farmers and herders.

Section 6. Worker Rights

a. The Right of Association.—The law allows all employees except members of the armed forces to join or form unions, but only with the authorization of the Ministry of the Interior; the government generally respected this right in practice.

In the formal sector, more than 90 percent of employees belonged to unions; however, the great majority of workers were nonunionized, unpaid subsistence cultivators or herders. The government, which owned businesses that dominated many sectors of the formal economy, remained the largest employer.

An ordinance that requires prior authorization from the Ministry of the Interior before an association, including a labor union, can be formed remained in force; however, there were no reports that the ordinance was used. The ordinance also allows for the immediate administrative dissolution of an association and permitted the authorities to monitor associations' funds.

b. The Right to Organize and Bargain Collectively.—The law allows unions to organize and bargain collectively, and in practice the government protected these rights. There were no export processing zones.

Although there were no restrictions on collective bargaining, the law authorizes the government to intervene in the bargaining process under certain circumstances.

The law recognizes the right to strike, and workers exercised this right in practice. The right to strike is limited in the public sector by a decree requiring minimum service to be maintained. While the law permits imprisonment with forced labor as punishment for participation in illegal strikes, no such punishment was imposed.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, during the year there continued to be

reports of forced labor practices in the formal economy and isolated instances of local authorities demanding forced labor by both children and adults in the rural sector (see section 6.d.). There were also reports that prisoners were required to work to pay back taxes they allegedly owed.

The law permits imprisonment with forced labor only for participation in illegal strikes.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits children (anyone under the age of 18) from undertaking “any work which, by its nature or the circumstances in which it was carried out, was likely to harm the health, safety, or morals of children”; however, in practice child labor, including forced child labor, was a serious problem. The government generally lacked the means to ensure enforcement of the law.

Although the labor code stipulates that the minimum age for employment in the formal sector is 14, the government did not enforce the law. According to a 2000 UNICEF study, 65.5 percent of minors worked, including those performing domestic chores for more than 4 hours per day, those working within the family (herding, microcommerce, etc.), and those who were underage and working for someone outside the family.

Approximately 1 out of every 5 children between the ages of 6 and 18 worked in the urban informal sector. Children throughout the country worked in agriculture and herding. They were also employed in the commercial sector, particularly in the capital, as street vendors, manual laborers, and helpers in small shops. Young girls worked as domestic servants, mainly in N’Djamena.

By some estimates, abusive and exploitative child labor affected 20 percent of children between the ages of 6 and 18. A UNICEF-government survey of child domestics in N’Djamena completed in February noted that 62 percent of child laborers were boys; young girls migrated to N’Djamena to earn money; 24 percent of working children were between 8 and 14 years of age, and 68 percent were between 15 and 17; and 86 percent of the children surveyed could not read or write.

There were cases in some southern regions in which families sold their children. In some areas local authorities fined parents caught selling their children into forced labor. To avoid detection, some families worked with intermediaries to pass children from families to the farm owners.

During the year there were reports that in the southern part of the country families contracted out their children to Arab nomadic herders to help care for their animals, and the children often were abused and returned with little financial compensation for their work.

There were also credible reports that children were forced into slavery. According to a 2004 UN news service report, aid workers in the country estimated that families have sold as many as two thousand children—some as young as eight—into a system of slavery in which they worked as child cattle herders.

Some children worked as domestic servants in the households of relatives for little compensation. Some young girls were forced into marriages by their families and then compelled to work in their husbands’ fields or homes and to bear children while they were still too young to do so safely (see section 5).

The law prohibits the use of child soldiers, and according to UNICEF protection officers, the use of child soldiers was not widespread (see section 5).

There were only 30 labor inspectors for the entire country. Approximately 10 to 15 child labor cases reportedly were investigated by the government each year.

The government worked with UNICEF to increase public awareness of child labor. During the year UNICEF organized workshops in regional towns to share information on the dangers of forced child labor and the benefits of education. The training provided each town with one individual charged with overseeing the continuing sensitization campaign. UNICEF developed a program with government funding to reduce the prevalence of young girls serving as household domestics. In addition the campaign to educate parents and civil society on the dangers of child labor, particularly for child herders, continued.

e. Acceptable Conditions of Work.—The labor code requires the government to set minimum wages. The minimum wage at year’s end was \$51 (25,480 FCFA) per month. Most wages, including the minimum wage, did not provide a decent standard of living for a worker and family. Nearly all private sector and state-owned firms paid at least the minimum wage, but it was largely ignored in the vast informal sector. During the year, for the first time the government began to pay all its employees at least the minimum wage, and government salaries increased overall by 5 percent. However, in some areas there were long delays in the payment of those salaries. Salary arrears remained a problem, although less so than in previous

years. Low wages among customs, police, and military officials contributed to almost daily extortion of the civilian population along all major roads (see section 2.d.).

The law limits most employment to 39 hours per week, with overtime paid for supplementary hours. Agricultural work was limited to 2,400 hours per year, an average of 46 hours per week. All workers were entitled to an unbroken 48-hour rest period per week; however, in practice these rights rarely were enforced.

The labor code mandates occupational health and safety standards and gives inspectors the authority to enforce them; however, in practice these standards rarely were respected in the private sector and were nonexistent in the civil service.

Workers had the right to remove themselves from dangerous working conditions; however, in practice they could not leave without jeopardizing their employment.

The labor code explicitly protects all workers, including foreign and illegal workers, but the protections provided were not always respected in practice.

COMOROS

The Union of Comoros is a constitutional, multiparty republic of approximately 670 thousand citizens. In 2002 citizens elected President Azali Assoumani in polling that international observers described as free and fair. The country consists of three islands (Grande Comore, Anjouan, and Moheli) and claims a fourth, Mayotte, which France governs. There was significant dispute over the division of responsibilities between union and island governments. Internal conflict resulted from the union government's nonpayment of salary to its employees, including teachers and doctors. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, although there were some areas of concern. The following human rights problems were reported:

- poor prison conditions
- restriction on freedom of religion
- official corruption
- discrimination against women
- child abuse and child labor

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 that the government or its agents committed arbitrary or unlawful killings.

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 and Detention Center Conditions.—Prison conditions remained poor, and common problems included improper sanitation, overcrowding, inadequate medical facilities, and poor diet. Authorities held pretrial detainees with convicted prisoners. The government did not take action to remedy such shortcomings, but it permitted visits by independent human rights observers, as well as the United Nations Development Program and the United Nations Children's Fund (UNICEF).

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

Role of the Police and Security Apparatus.—There were six separate security forces reporting to four different authorities. There was a union gendarmerie and a union military that handled defense and local policing on Grand Comore and Moheli; Anjouan maintained its own gendarmerie. The union police force handled immigration and some local policing in Grand Comore. Each of the three islands also had its own local police force that reported to the corresponding island government.

There was continued corruption in the police force. Citizens paid bribes to evade customs regulations, avoid arrest, falsify police reports, or for police personnel, to receive promotion within the force. Impunity was a problem, as there was no mechanism to investigate police abuses.

Arrest and Detention.—The law requires warrants for arrests and provides that detainees may be held for 24 hours, although these provisions were not always re-

spected in practice. The procurer general had to approve continued detention. A tribunal informed detainees of their rights, which includes the right to legal representation. According to the law, public attorneys are available to indigent individuals, but in practice there was a dearth of legal representation. There was a bail system under which the individual was not permitted to leave the country.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. The head of state appoints magistrates by decree.

The seven-member Constitutional Court includes a member appointed by the president of the Union, a member appointed by each of the two union vice presidents, a member appointed by each of the three island government presidents, and a member appointed by the president of the national assembly. The Constitutional Court found unconstitutional some legislation passed by the national assembly, and the government respected the court's decision. Minor disputes can be reviewed by the civilian court of first instance, but in practice they are often settled by village elders. Juries determined criminal cases, which could be reviewed before the appellate court.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are mostly open to the public. Juries deliberated criminal cases, and there is an appeal process. The legal system incorporates French legal codes and Islamic law; however, Shari'a was not used. In practice village elders decided most disputes without using the formal legal system.

Political Prisoners.—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; however, the government partially limited press freedom. In particular, the Anjouan island government limited the ability of journalists to criticize the government.

There was a government-supported newspaper, *Al-Watwan*, and two independent papers, *Cachecazi* and *Archipel*. The Anjouan island government intimidated journalists from writing articles critical of the government, and there were no independent newspapers.

There was a government radio station, which operated on a regular schedule. In addition, there were local community radio stations, which operated in very narrow transmission areas. Citizens who lived overseas primarily funded these stations, which were staffed by volunteers and were allowed to operate without government interference or regulation. Mayotte Radio and French television also broadcast without government interference. There were several small, community-based television stations that operated without government interference, and local residents and their relatives overseas raised funds for their operation. The Anjouan government banned news programming on Radio Dzialandze Mutsamudu, a privately owned radio station in Anjouan, following the interview of a doctor who defended a strike staged by medical personnel.

Foreign newspapers and books were available.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association; however, in practice the government did not always respect this right. In September Grand Comorians responded to a fuel price hike by blocking roads and staging a massive protest and strike. In efforts to open the roadblocks and end the protests, soldiers killed 1 and wounded 16 civilians.

c. Freedom of Religion.—The law provides for freedom of religion; however, the government restricted this right in practice. The constitution declares that the laws must draw inspiration from Islam but does not declare Islam the official religion. An overwhelming majority of the population was Sunni Muslim, and proselytizing was illegal.

Societal Abuses and Discrimination.—Christians continued to face intense social pressure, including restricting the use of the few Christian churches to noncitizens. Family and community members are likely to harass those who join non-Muslim faiths. Officials in Moheli reportedly stopped a group traveling from Grand Comore to Anjouan via Moheli to attend a Jehovah's Witness meeting. Unlike in the pre-

vious year, there were no reports of a ban on Anjouan regarding dress that appeared Arabic.

There was no known Jewish population and no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 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.

Intervillage conflicts restricted free movement of citizens within the country's borders. There were cases of individuals from Grand Comore being refused entry into Moheli and Anjouan.

The law does not prohibit forced exile, but in practice the government did not use forced exile.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution, but it did not grant refugee or asylum status routinely.

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.

Elections and Political Participation.—International observers declared that the elections in 2004 for the newly created national assembly were free and fair. There were no bans on political parties, which continued to criticize the government openly. The National Assembly had 26 members from the parties aligned with the island governments and 7 members aligned with the union government.

Traditional social, religious, and economic institutions significantly affected political life; nonelected village elders reportedly influenced some government decisions.

There was 1 woman in the 33-member national assembly. There were 2 women in the 13-member office of the union president. There were no minorities in high-level offices.

Government Corruption and Transparency.—There were reports of government corruption during the year. The government awarded contracts for constructing the airport and university to a local firm with ties to the president, and there were investigations into these contracts. It was widely known that private firms such as Comoros Hydrocarbure and Comoros Telecom partially financed the union government by providing funds for official travel and private expenses on travel.

There are no laws providing for public access to government information. Those who have personal or working relationships with government officials can generally access government information, but not members of the general public.

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

One domestic and some international nongovernmental organizations operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

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

The law prohibits discrimination based on race, sex, disability, language, or social status; however, there was discrimination against women.

Women.—The law prohibits domestic violence, but the government did not take any action to combat such violence against women, and police and human rights groups believed it to be rare. Women could seek protection through the courts in such cases, but in practice the extended family or village elders addressed such problems.

Rape is illegal, punishable by imprisonment of 5 to 10 years or up to 15 years if the victim is younger than 15 years of age. The government did not enforce effectively the laws on rape. The law does not specifically address spousal rape.

Prostitution is illegal, and most citizens did not consider it to be a problem.

Sexual harassment is illegal and is punishable by a 1-to-10 year sentence. However, it was a common problem but one rarely reported due to societal pressure.

The law provides for equality of persons, and in general, inheritance and property rights do not discriminate against women. Men retained the dominant role in society, although the matriarchal tradition afforded women some rights, especially in terms of landholding. Societal discrimination against women was most apparent in rural areas where women had farming and childrearing duties and fewer opportunities for education and wage employment. The status of women improved in the major towns, where growing numbers of women were in the labor force and generally earned wages comparable to those of men engaged in similar work; however, few women held positions of responsibility in business. The law does not require women to wear head coverings, but many women faced societal pressure to do so.

Children.—The government has not taken any specific action to protect or promote children's welfare. The government did not enforce legal provisions that address the rights and welfare of children because of a lack of inspectors.

Education is free and compulsory for children below the age of 16, but in practice, the government rarely provided public school for children past the age of 14 years. According to the Ministry of Education, 95 percent of school-age children attended school. During the year, authorities cut the school term from nine months to five months because teachers went on strike after not receiving their salaries for several months.

Boys generally had more access than girls to schools.

Although there were no official statistics on child abuse, it was common, particularly when impoverished families sent their children to work for wealthier families. Authorities generally provided these children food, shelter, and educational opportunities, but they were required also to work, sometimes under harsh conditions. Child prostitution and child pornography are illegal. The law considers unmarried children under the age of 18 as minors, and they are protected legally from sexual exploitation, prostitution, and pornography. There were no statistics regarding these matters, but they were not considered serious problems, and there were no reports of violations in these areas.

Trafficking in Persons.—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—There are no laws that mandate access to buildings for persons with disabilities or prohibit discrimination in employment and public services. However, in practice there generally was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and they did so in practice. Approximately 80 percent of the population engaged in farming on small land holdings, subsistence fishing, and local commerce. The wage labor force was less than seven thousand, of whom approximately five thousand were government employees. Teachers, civil servants, taxi drivers, and dockworkers were unionized. Unions were independent of the government.

The rarely enforced labor code does not include a system for resolving labor disputes, and it does not prohibit antiunion discrimination by employers.

b. The Right to Organize and Bargain Collectively.—The law protects workers from employer interference in their right to organize and administer their unions, and the government protected this right in practice. Unions have the right to bargain collectively, although employers set wages in the small private sector, and the government, especially the ministries of finance and labor, set them in the larger public sector.

The law provides for the right to strike, and government employees exercised this right. There were no laws protecting strikers from retribution, but there were no known instances of retribution.

Despite strikes and other protests, the union government did not pay government employees, including low-level government officials, teachers, and medical workers, for six months.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor by adults but not by children. There were some reports that such practices occurred (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law defines the age of 15 as the minimum for employment, but in practice the government did not always enforce this law. Children usually worked in subsistence farming and fishing. Some families placed their children in the homes of wealthier families

where they worked in exchange for food, shelter, or educational opportunities. Other forms of child labor generally were not a problem due to the lack of wage employment opportunities. A 2000 UNICEF study found that approximately 15 percent of children were not paid for their work.

e. Acceptable Conditions of Work.—There was no minimum wage. During the year, the government was unable to pay most civil servant salaries (see section 6.b.).

The law specifies a workweek of 37½ hours with one day off per week plus one month of paid vacation per year. According to the law, workers receive time and a half for overtime. In practice employers, particularly the government, were often remiss in paying salaries.

There were no safety or health standards for the very small manufacturing sector. Workers generally could not remove themselves from an unsafe or unhealthful situation without risking their employment.

DEMOCRATIC REPUBLIC OF THE CONGO

The Democratic Republic of the Congo (DRC) is nominally a highly centralized republic with a population of approximately 60 million. President Joseph Kabila heads a national transitional government, which was formed in June 2003 to end five years of civil war and is composed of former belligerent factions, including representatives from the former government, former rebel groups, civil society, and the political opposition. President Kabila came to power in 2001 after the assassination of his father, Laurent Desire Kabila. There have not been free national elections since 1960, but elections were scheduled to be held in early 2006, and the transition period will end on June 30, 2006.

At year's end despite the presence of 16,850 UN peacekeeping troops in the country, government control of certain areas of the country remained weak, particularly in the rural areas of North and South Kivu, the Ituri District of Orientale Province, and northern Katanga, where armed groups continued to operate outside of government control. Although the government made progress integrating key institutions such as the army, police, and local administrations, different components of the government sometimes acted independently of, or contrary to, the interests of other components. Civilian authorities generally did not maintain effective control of the security forces, which were poorly trained, poorly paid, undisciplined, and committed numerous serious human rights abuses with impunity, particularly in eastern parts of the country.

In all areas of the country, the human rights record remained poor, and numerous serious abuses were committed; however, there were some improvements during the year. As the country took steps toward elections and as the security situation in the eastern provinces improved during the year, the incidence of severe human rights violations decreased, although press freedom deteriorated. Several of the human rights violations reported in previous years, including militia attacks on internally displaced persons (IDPs), were not reported this year; and there were fewer reports of the recruitment of child soldiers and of attacks on civilians by military forces. During the year there was also a significant reduction in the number of human rights violations in Ituri District and Orientale Province. Specifically, killings and rapes by armed groups decreased as militias were forced to leave areas formerly under their control, although some incidents continued to be reported. In Orientale Province, the government and the UN Observer Mission in the Congo (MONUC) demobilized 12 thousand militia members. During the year magistrates and police returned to and began operating in these areas, and the government exerted more control. However, several factors and developments continued to have a negative impact on the country's human rights situation. The World Bank estimated that 80 percent of the population lived on less than one dollar per day. Infrastructure was in serious disrepair, financial institutions remained weak, and public education and health services continued to deteriorate. Widespread corruption had significant adverse effects on economic conditions. The following human rights problems were reported:

- absence of citizens' right to change their government
- unlawful killings by security forces
- the torture and abuse, including rape, of persons by security forces
- harsh and life threatening prison conditions
- impunity
- arbitrary arrest, prolonged pretrial detention, and judicial corruption

- arbitrary interference with privacy, family, and homes
- restrictions on freedoms of speech, press, and assembly
- occasional restrictions on freedom of association and movement
- corruption and lack of access to information
- restrictions on civil society groups
- violence (including rape) and discrimination against women
- use of child soldiers and abuse of street children
- discrimination against ethnic minorities
- trafficking in persons
- child labor
- lack of protection of some workers' rights

Some armed groups operating outside of government control in four eastern provinces of the country committed serious crimes, including numerous killings, rape, and other possible war crimes.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Unlike in the previous year, in areas under government control, there were no reports that security forces committed politically motivated killings; however, security forces committed other unlawful killings with impunity. During the year authorities arrested two security forces members accused of killing a prominent human rights activist in the South Kivu Province town of Bukavu (see section 4).

Unlike in the previous year, there were no reports that a person died as a result of torture by security forces.

On July 2 and 3, army soldiers fatally shot at least four civilians, wounded 20, and ransacked shops and houses in the western town of Mbandaka. The soldiers, who had been part of the Movement for the Liberation of Congo (MLC), a former rebel faction that was supposed to have been integrated into the country's military, reportedly went on a rampage after finding the mutilated body of one of their fellow soldiers. Most of the soldiers returned to their barracks following the killings. One half of the military unit responsible for the abuses was later sent for *brassage*, a process of training and integration into the Congolese Armed Forces (FARDC), the country's army. Authorities arrested 23 of the soldiers; a court convicted 9, who remained in a Kinshasa prison at year's end.

In August eight soldiers of the Special Presidential Security Group (GSSP) beat to death an official of the national aviation agency in Kindu, capital of the central province of Maniema, after the elderly man's cigarette lit fire to a shrub near live artillery shells. On October 25, a court sentenced the eight soldiers to life imprisonment.

Security forces killed and injured demonstrators while attempting to disperse them (see section 2.b.).

During the year there were many reports that soldiers killed civilians while attempting to steal from them (see section 2.c.). On July 15, Colonel Simba Hussein killed Muyeye Bishamo for refusing to change his tire for less than the agreed price in Bukavu, South Kivu. In July a military court sentenced Hussein to death. He appealed the sentence and was awaiting a hearing at year's end.

There reportedly was no action taken against members of the security forces responsible for numerous killings in 2004.

During the year the FARDC killed an unknown number of civilians in the east (see section 1.g.).

There was no known action taken against parastatal mining company guards who reportedly killed six artisanal diamond miners in February 2004, or against security forces whose actions reportedly resulted in the deaths of at least 10 in miners Western Kasai.

There were reports that unidentified armed men in uniform forcibly entered personal residences in Kinshasa at night to harass civilians, loot personal belongings, and kill persons involved in personal feuds.

There were no developments in the killings committed by unidentified armed men in uniform in 2004.

Although Mai Mai groups were technically integrated into the FARDC, they often acted outside government control, killing civilians and sometimes working with Rwandan Hutu militia groups who killed civilians (see section 1.g.).

Armed groups operating in the east targeted civilians on the basis of ethnicity for extrajudicial killings, rape, and looting (see sections 1.d. and 1.g.). Armed groups committed numerous abuses, including summary executions, civilian massacres, torture, looting and burning of houses, and attacks on civilian areas. Fighting between armed groups displaced thousands of civilians and resulted in hundreds of civilian deaths (see section 1.g.).

No known action was taken against members of armed groups operating in areas under marginal government control who summarily executed persons in 2004.

Unlike in the previous year, there were no reports that police operating in territory controlled by the Congolese Rally for Democracy-Goma (RCD-G) or ex-RCD-G soldiers killed demonstrators.

Unlike in the previous year, there were no reports of high profile killings by unknown actors in Ituri District and Goma, North Kivu. There was no known action taken against unidentified gunmen who killed persons in Goma or Bunia in October and November 2004.

In late September residents of the town of Rutshuru, approximately 40 miles north of Goma, discovered mass graves which were later inspected by UN officials. The graves contained the remains of hundreds of individuals believed to be Rwandan refugees and DRC citizens killed sometime in 1996, during a period of armed conflict. Residents of the area where the graves were found alleged that a Rwandan-backed Congolese armed group, which was fighting former DRC President Mobutu Sese Seko's government, killed at least 300 persons. No further information was available at year's end.

Unlike in the previous year, there were no reports of killings of civilians by mobs. There were, however, confirmed incidents in which parents or relatives of children, along with small groups of other adults, killed children accused of witchcraft.

There were unconfirmed reports that civilians killed and beat men in uniform for committing serious human rights abuses in North and South Kivu, Orientale, and Equateur provinces.

There was no arrest of civilians or security forces responsible for lynching 20 street children in Mbuji Mayi in 2004.

Unlike in the previous year, no demonstrators were killed during crowd dispersal by UN peacekeepers.

b. Disappearance.—There were no confirmed reports of politically motivated disappearances by government forces.

Armed groups operating outside government control in four eastern provinces kidnapped numerous persons (see section 1.g.).

On October 23, Mai Mai militiamen took four election officials hostage in an attack on a voter registration center in Burondo village, North Kivu, and looted computers and other materials used to register voters for the national general elections. Government forces freed the hostages on November 1.

Various armed groups abducted women and children from the villages they raided to perform labor, military services, and sexual services (see sections 1.g. and 6.c.). Many of the victims have since disappeared.

There were no developments in any of the numerous cases of disappearance in 2004 and 2003, and no action had been taken against the perpetrators.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law does not criminalize torture; although there was a draft bill before parliament that would criminalize torture, it had not been adopted by year's end. Security forces and prison officials often beat and tortured detainees and prisoners. There were also unconfirmed reports that members of the security services tortured or abused civilians to settle personal disputes for themselves or other government officials.

Members of the security services employed cruel, inhuman, and degrading punishment.

On November 27 in Kambabma-Kaboneke, for example a FARDC officer reportedly arrested, beat, and whipped a woman after she refused to let him take shelter in her house during a rainstorm. There was no additional information at year's end.

During the year security forces beat journalists (see section 2.a.).

During the year security forces killed and injured demonstrators while attempting to disperse them (see section 2.b.).

Security forces harassed street children in Kinshasa (see section 5).

Members of the security forces raped civilians (see section 1.g.).

There was no known action taken against members of the security forces responsible for torture or abuse in 2004 or 2003.

Armed groups operating outside government control in four eastern provinces kidnapped, tortured, raped, and otherwise physically abused numerous persons during the year (see section 1.g.).

Unlike in the previous year, former RCD-G officers did not violently disperse demonstrations.

No known action was taken against those members of the former RCD-G militia or any other armed group previously accused of torture, beatings, or cruel, inhumane, or degrading treatment or punishment in 2004 or 2003.

Prison and Detention Center Conditions.—Conditions in most large, central prisons were harsh and life threatening. During the year an unknown number of persons reportedly died in prisons. The penal system continued to suffer from severe shortages of funds and trained personnel. Most prisons were severely overcrowded, in a poor state of repair, lacked sanitation facilities, or were not designed to detain persons. Health care and medical attention remained inadequate, and infectious diseases were a problem. In some cases, prison doctors were available; when they were, however, they lacked medicines and supplies.

Food remained inadequate, malnutrition was widespread, and there were unconfirmed reports of detainees starving to death. In several areas, the government has not provided food for years. In general, prisoners' family and friends were able to provide food and other necessities; however, local nongovernmental organizations (NGOs) reported that authorities sometimes moved prisoners without telling the families where they were sent. Family members were often forced to pay bribes to bring food to prisoners. Prisoners who had no relatives to bring them food could be subject to starvation.

Conditions in smaller detention facilities were harsher than in larger prisons, and an unknown number of persons died. These facilities were overcrowded and generally intended for short-term pretrial detentions but in practice were often used for lengthy detentions. Authorities often arbitrarily beat or tortured detainees. There usually were no toilets, mattresses, or medical care, and inmates often received insufficient amounts of light, air, and water. Such detention centers generally operated without a budget and with minimal regulation or oversight. Local prison authorities or influential individuals frequently barred visitors or severely mistreated particular detainees. Prison guards frequently required bribes from family members and NGOs to visit or provide detainees with food and other necessities.

The security services, particularly the civilian and military intelligence groups and the GSSP, continued to operate numerous illegal detention facilities. Conditions in these facilities were extremely harsh and life threatening. Detainees were regularly abused, beaten, and tortured. Facilities lacked adequate food and water, toilets, mattresses, and medical care, and authorities routinely denied access to family members, friends, and lawyers.

An unknown number of persons died in prison due to mistreatment and neglect during the year.

Women and juveniles sometimes were held separately from men in larger prisons but were not separated in other detention facilities. There were numerous credible reports that male prisoners raped other prisoners, including men, women, and children. Pretrial detainees were not separated from convicted prisoners, and they were often treated the same. Prisoners detained for state security reasons were generally held by the security services or in special sections of prisons. Soldiers and civilians were both detained in civilian and military prisons and detention facilities. There continued to be sections of prisons and detention facilities where wealthy prisoners paid for special privileges and received better treatment.

In general the government allowed the International Committee of the Red Cross (ICRC), MONUC, and many NGOs access to all official detention facilities; however, these organizations did not have access to illegal detention facilities maintained by security forces.

Prison conditions in the east were extremely harsh and life threatening. Armed groups operating in these areas imprisoned persons in numerous facilities, including personal residences and hastily constructed shacks that were not designed as prisons. Detainees often were kept in overcrowded rooms with little or no light or ventilation. Detainees typically slept in small, overcrowded cells on cement or dirt floors without bedding and had no access to sanitation, potable water, toilets, or adequate medical care. Infectious diseases were widespread. Detainees were provided very little food, and guards demanded bribes to allow family members or friends to bring food to prisoners. Prisoners frequently were subjected to torture, beatings, and other abuse with no medical attention.

During the year MONUC human rights and child protection officers, accompanied by MONUC military escorts, sometimes were allowed access to prisons in areas where armed groups operated outside government control.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, security forces arbitrarily arrested and detained persons, including journalists (see section 2.a.).

Role of the Police and Security Apparatus.—The security forces consist of a national police force, including the Rapid Intervention Police unit, which the Ministry of Interior oversees; an immigration service under the Ministry of the Interior; the National Intelligence Agency (ANR) overseen by the National Security Advisor; the military intelligence service overseen by the Ministry of Defense; and the GSSP, which reports directly to the presidency. The national police have primary responsibility for law enforcement and maintaining public order. The ANR is responsible for internal and external security. The FARDC was responsible for external security but also had domestic security responsibilities.

By year's end the national police force was increasingly integrated. On November 8, the government—with financial support from foreign governments—opened a \$1.3 million police facility in Kinshasa to bring the country's disparate police units under central command and control. In addition during the year the government worked with MONUC and members of the international community to train police. There was some police improvement, specifically among the rapid police force, following the training by a foreign country of three thousand officers for riot control and emergencies. These officers were properly armed with tear gas and rubber bullets to handle volatile situations and significantly reduce human rights violations. At year's end the international community was training and professionalizing traffic police.

Although the overall level of professionalism increased during the year, police forces generally remained ineffective and corrupt. During the year members of the police, military, and security forces attacked, detained, robbed, and extorted money from civilians. The government prosecuted and disciplined some abusers; however, the vast majority acted with impunity. Although there were mechanisms available to investigate human rights violations by police, they were used sporadically.

Arrest and Detention.—Under the law, certain police officers and senior officers of the security forces are empowered to authorize arrests. Warrants are required only for offenses punishable by more than six months' imprisonment. Detainees must be brought before a magistrate within 48 hours. In practice, these provisions were routinely violated.

Police often arbitrarily arrested and detained persons without filing charges, often to extort money from family members. When authorities did press charges, the claims were rarely filed in a timely manner and were often contrived or overly vague. Reportedly, security forces regularly held alleged suspects for varying periods of time before acknowledging that they were in custody or allowing the detainees to have contact with family or legal counsel.

On November 10, following the November 4 arrest by Kinshasa police of 432 "vagrants," including many street children, authorities released 184 of the children who had been arrested, transferred 94 adults to other prisons, and released the remaining detainees. Prior to the release of these detainees, MONUC's human rights section had condemned the unsanitary and unsafe conditions under which the detainees were being held and the length of detention, which exceeded the 48 hours allowed by law.

Police arrested persons during the year for criticizing the government (see section 2.a.).

Security forces used the pretext of state security to arbitrarily arrest individuals. Individuals arrested and detained in the name of state security frequently were held without charge, presentation of evidence, access to a lawyer, or due process. For example in June police in Kinshasa temporarily arrested approximately 85 persons accused of trying to overthrow the transitional government. Few were detained more than several days, and all were released by year's end. In anticipation of violent demonstrations on June 30, the police temporarily detained approximately 450 persons who were released the same day (see section 2.b.).

There were no reports of political detainees during the year.

Pretrial detention was very frequently prolonged. Human rights NGOs reported that fewer than 20 percent of the inmates at the Kinshasa Penitentiary and Reeducation Center had been charged or sentenced. According to MONUC's April 2004 prison report, only 20 percent of the country's total prison population had been brought to trial and convicted of committing a crime.

Prisoners were often held in detention after their sentences had expired; these extended detentions were due to disorganization, judicial inefficiency, and corruption. In a few instances, when such cases were brought to the attention of the government, prisoners were released.

Armed groups operating outside government control in parts of the east systematically detained civilians, often for ransom. These groups operated outside of the government's criminal justice system.

Near Uvira, South Kivu, a Bembe and a Mufulero Mai Mai commander regularly targeted members of each other's ethnic groups for arrest.

Amnesty.—On November 29, the National Assembly passed a law granting amnesty to individuals accused of war crimes and political offences committed between August 1996 and June 2003; A December Supreme Court ruling excludes amnesty for individuals allegedly involved in the assassination of former President Laurent Kabila, calling their acts "common," rather than political crimes.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, in practice, the judiciary continued to be poorly paid, ineffective, subject to influence by other government officials, and corrupt. The civilian judicial system, including lower courts, appellate courts, the Supreme Court, and the Court of State Security, continued to be largely dysfunctional, and the rule of law was not generally respected. Although courts are required to file charges within 48 hours of arrest, they generally did not, and long delays occurred. Corruption remained pervasive, particularly among magistrates, who were paid very poorly and only intermittently, and there were credible reports that judges regularly prolonged trials as a form of blackmail and a means of soliciting bribes.

Trial Procedures.—Civil and criminal codes are based on Belgian and customary law. The legal code provides for the right to a speedy public trial, the presumption of innocence, and legal counsel; however, these rights were not respected in practice. Some trials are public, while others, such as many rape trials, are not. There are no juries. Defendants have the right to appeal in most cases but not in cases involving national security, armed robbery, and smuggling, which generally are adjudicated by the Court of State Security. In some instances the special military tribunals, whose jurisdiction is ill defined, adjudicate national security cases. The law provides for court-appointed counsel at state expense in certain cases, but the government often did not provide such counsel.

Military courts, which had broad discretion in terms of sentencing and no appeal process, tried military defendants. Military courts continued to try civilians during the year. Although the government permitted, and in some cases provided, legal counsel, lawyers often did not have free access to defendants. Trials were open to the public at the discretion of the military judge.

Throughout the country, corruption remained rampant, and judges and other public servants were paid poorly and intermittently. Continued progress on the demobilization of militia groups, particularly in Ituri District, stabilized the situation enough to allow the return of some judicial officials and public servants.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, security forces routinely ignored these provisions. Members of security forces, deserters from the army, and police continued to harass and rob citizens. Security forces routinely ignored legal requirements for search warrants and entered and searched homes or vehicles at will. During the year soldiers regularly occupied civilians' residences. In general those responsible for these acts remained unidentified and unpunished.

Police sometimes looted the homes and vehicles of the persons they arrested and occasionally beat and abused occupants; however, there were fewer reports than in previous years.

ANR security agents monitored mail passing through private express delivery companies and the very limited state mail service. The government was believed to monitor some telephone communications.

Throughout the country, there were credible reports that authorities sometimes arrested or beat a close family member of the person they sought but were unable to locate. For example on August 5, police in Lubumbashi arrested and severely beat Mimi Balela Mbayo in place of her husband, who was wanted for stealing 24 thousand dollars from a former employee. Ms. Mabyo's buttocks were flayed, tearing off large pieces of flesh and muscle. At year's end no action had been taken against OPJ Donat Atwena, the police officer who ordered the beating.

Armed groups operating in the east routinely subjected civilians to arbitrary interference with privacy, family, home, and correspondence (see section 1.g.). In the east, all armed groups and government forces looted homes, seized livestock, and extorted money by charging irregular fees, such as bicycle transit taxes in North Kivu, river tolls in Orientale Province, and protection surcharges in South Kivu.

During the year there were reports that uniformed and armed men, were recruiting Congolese children in two Rwandan refugee camps for use as soldiers (see section 5).

Armed groups operating outside government control in parts of the east continued to recruit children for use as soldiers (see section 5).

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—The transitional government was officially established in July 2003, following political negotiations in 2002 that ended the five-year civil war. The war resulted in the deaths of between three million and four million individuals, and despite the conflict's official end, fighting has continued in mineral-rich eastern parts of the country, particularly in Ituri District and North and South Kivu provinces. By mid-2003, all foreign troops had formally withdrawn from the country. However, Rwanda and Uganda reportedly continued to support armed groups operating in the country, and there continued to be unconfirmed reports from multiple credible sources that Rwandan soldiers and officers were at times present in the country.

There were reports that government forces killed civilians, including civilians in the east, during the year (see section 1.a.). FARDC forces were also responsible for serious human rights violations directly related to internal conflict in the east, including rape, arbitrary arrest, looting, extortion, and harassment.

The FARDC violated fundamental human rights in the eastern part of the country and elsewhere. During the last several months of the year, the FARDC was allegedly responsible for the majority of human rights violations investigated by MONUC. For example a civilian died in a hospital in Gemena from a severe beating by four FARDC soldiers on October 31; he had been beaten for trying to prevent a robbery attempt by the FARDC. On November 23, FARDC soldiers killed a civilian near a military camp in Bukavu for attempting to prevent soldiers from stealing his belongings. On December 7, FARDC soldiers summarily executed a civilian south of Butembo.

In December 2004, ex-MLC troops belonging to the FARDC battalion in the central Equateur towns of Nsongo Mboyo and Bogandanga gang-raped approximately 120 women and girls and looted every household in the two towns. Authorities apprehended and transported the accused to Mbandaka for investigation. Following an investigation in April, a court indicted and convicted 12 soldiers and sentenced them to 15 years in prison. At year's end nine of the convicted soldiers had been imprisoned.

There were credible reports that former members of armed groups who were waiting to demobilize committed rapes, looted food and livestock, and charged tolls for women to work in the fields.

During the year the government conducted some trials regarding violations committed in the context of the ongoing internal conflict in the east. In general, the trials were flawed, and sentences were not always enforced. For example during the year the FARDC tried 29 of its soldiers accused of committing human rights violations in North Kivu in 2004. Courts sentenced 27 to death. The trials were marred by lack of defense counsel and no witness statements.

After luring four armed group commanders to Kinshasa by offering inclusion in the national army and conveyance of high rank, the government arrested them in April. In August the government also arrested Katanga Mai Mai leader Chinja Chinja and reportedly confined him to a residence in Kinshasa at year's end. All five were accused of having ordered or committed war crimes and crimes against humanity, including killings, in previous years.

On September 7, the government issued international arrest warrants against General Laurent Nkunda and Colonel Jules Mutebusi, two dissident officers and former members of the RCD-G for mounting an insurrection movement, war crimes, and crimes against humanity for their activities in North and South Kivu in 2004. By year's end Rwanda reported that Mutebusi had been placed under house arrest in Kigali, but Nkunda had not been arrested and was living in North Kivu.

On November 27, a county court in the northeastern town of Bunia in Ituri District sentenced local militia leader John Tinanzabo, secretary-general of the Union of Congolese Patriots (UPC), to 15 years imprisonment for forgery and extorting money from the public. The court also ordered Tinanzabo to pay a fine of \$200.

No other known action was taken against government troops or government-supported Mai Mai troops who committed human rights violations, including executions and looting, against civilians in 2004 or 2003.

Unlike in the previous year, there were no reports that former members of the armed group ANC had killed civilians.

During the year the government, with support from MONUC, arrested members of various armed groups accused of grave human rights violations over the past several years.

Armed groups operating outside of government control in parts of the east committed numerous human rights violations, including civilian massacres; the burning and destruction of entire villages; frequently killing, abducting, torturing, or raping some of the inhabitants, especially in rural areas of North and South Kivu provinces, northern Katanga Province, and Ituri District of Orientale Province; the forcible recruitment of child soldiers; and the rape of women and girls. Armed groups also forced civilians to pay "security premiums." Large numbers of civilians were displaced (see section 2.d.). Disputes and shifting alliances between various armed groups resulted in frequent human rights violations against civilians, who were accused of supporting one of several groups who opposed each other.

At times, verification of these reports was difficult, due to geographical remoteness, hazardous security conditions, and impediments imposed by local authorities (see section 2.d.); however, MONUC's presence allowed observers to gather more information than would have otherwise been possible, and according to local NGOs, helped decrease human rights violations by armed groups during the year.

There were numerous credible reports that the government of Rwanda continued to provide material support to armed groups in the Kivus and in Ituri, some of which committed human rights violations. There were credible reports that Ugandans provided material support to armed groups, including the Congolese Revolutionary Movement and the Front for the National Integration (FNI), who committed human rights violations while operating in Ituri (see section 4).

There remained between seven thousand and eight thousand soldiers of the Democratic Forces for the Liberation of Rwanda (FDLR) as well as their family members in the eastern provinces of North and South Kivu. The FDLR, largely made up of Rwandan Hutus who fled to the DRC in 1994 after the Rwandan genocide, continued to be led by many individuals responsible for leading the genocide. More than 100 FDLR members opted to voluntarily demobilize and return to Rwanda during the year. However, the vast majority was still outside of government control, and some of them continued to commit violations against rural populations. In November MONUC and the FARDC launched joint operations against the FDLR.

By year's end more than 12 thousand former combatants in Ituri had voluntarily disarmed and joined the UN disarmament process. Several transit sites were set up in Ituri for the disarmament and reintegration of militiamen; however, only a small number of those who had disarmed were able to make use of reintegration programs and jobs promised to them.

On April 15, during part of a national army offensive against the UPC, an hours-long shoot-out between national army troops and UPC militias loyal to Thomas Lubanga in Central Soleniamia area, seven miles north of Bunia, resulted in the death of at least one civilian, the alleged rape of a woman by three government soldiers, looting by both sides, and the displacement of thousands of civilians. It was unknown whether any action had been taken against the soldiers accused of committing rape.

FARDC militia were allegedly responsible for several brutal rapes in the east, including the November 15 rape of a pregnant woman in Kalemie and the November 16 rape of a 15-year-old girl in Ituri District.

The Mai Mai militia group continued to commit abuses against civilian populations. For example on November 28, Mai Mai forces attacked villages in northern Katanga, killing a customary chief and setting homes on fire. Approximately 221 individuals were displaced as a result of the attack.

During the year there were reports that ex-RCD-G combatants committed killings or other violations in east.

During the year there were reports that Mai Mai militiamen attacked villages in Katanga Province, killing individuals, raping numerous women, looting, and forcing the displacement of 15 thousand individuals between May and August. For example on July 5, Mai Mai militiamen reportedly attacked the Mitwaba Territory village of Mufule and killed the head of the local school. Also in July, Mai Mai militiamen completely burned down a nearby village, Mukana, and partially destroyed the villages of Kialwe and Mumbolo. On August 1, a program manager for Doctors without Borders (MSF) reported fighting between government forces and Mai Mai militiamen, saying that both groups were committing violence against civilians.

During the year Hema and Lendu militias continued to fight in Ituri District. In January, fighting between the Lendu and the Hema militias resumed in Ituri District, often targeting territory and civilians of the Lendu and Hema ethnic groups. UN officials and local NGOs said they believed the militias' objectives were to change the ethnic composition of Djugu, a territory of the northern Ituri town of Bunia; and a UN official said the conflict stemmed from a struggle to control smuggling operations and tax collection regimes along Lake Albert.

During the year there were reports that the Lendu-dominated FNI and other Lendu groups in Ituri District killed individuals, gang-raped pregnant women, burned to death children, kidnapped individuals for sexual slavery, razed villages to the ground, and sometimes used fetishes and mutilation to intimidate their opponents and in accordance with a belief that they would improve their fighting capabilities. These groups were responsible for numerous violations and massive population displacements during the year.

On March 16, Ngiti tribal militia kidnapped hundreds of Hema tribesmen on Lake Albert, decapitating some, torturing others, and forcing the remainder to work as porters or sex slaves.

The use of mass rape and sexual violence as weapons of war continued with impunity (see section 5). Armed groups used rape to humiliate and punish victims, families, and communities. Violent gang rapes by members of armed groups were common and were often committed in front of victims' families. Rapes were often extremely violent and were generally accompanied by threats and beatings. These rapes sometimes resulted in vaginal fistula, a rupture of vaginal tissue that left women unable to control bodily functions and vulnerable to ostracism.

During the year the local human rights NGO Women's Network for the Defense of Right and Peace (Reseau des Femmes pour La Defense des Droits et La Paix) detailed approximately 100 cases of rape by armed groups in the territory of Walungu, South Kivu. The women raped ranged in age from 9 to 68. All but three cases were attributed to the FDLR or the splinter group, Rastas.

In some cases sexual abuse committed by various militia groups in the east was of a limited duration or was carried out in a sporadic manner, many times with different victimizers. Other girls and women were subjected to repeated rape over longer periods with one victimizer; some were forcibly abducted (see section 5 and 6.c.). These girls and women were commonly referred to as war wives, who often served both as fighting elements in active combat and sexual slaves for their commanders.

During the year violations of humanitarian law were commonplace, and peacekeepers and humanitarian workers were threatened, harassed, and killed. Armed groups killed at least 11 UN peacekeepers during the year.

On June 2, unidentified individuals kidnapped two staff members of MSF outside Bunia, before releasing them nine days later. As a result MSF suspended all assistance in Ituri District outside Bunia for the rest of the year. During the year there were reports that Ituri armed groups attacked other NGOs, threatened to kill local staff, and stole money, equipment, and telephones. During the second half of the year, MONUC performed cordon and search operations to prevent similar attacks on NGOs.

Armed groups continued to loot, extort, and illegally tax civilians in areas they occupied. For example on March 12, retreating UPC militiamen in Ituri looted the vehicles and personal effects of the NGO German Agro Action.

In many cases, armed groups did not make a distinction between military and civilian targets, used civilians as shields, and often targeted civilians for retribution. For example in August the UPC used human shields against MONUC in the Ituri town of Ngina.

During the year there were sporadic reports of deaths or injury from landmines. Armed groups and sometimes FARDC units continued to have children in their ranks (see section 5).

There were no credible attempts by armed groups outside of government control to investigate incidents that occurred since 2003 in which their troops allegedly committed human rights violations.

During the year there were credible reports that foreign rebels killed civilians. On July 9, in the village of Ntulumamba, 43 miles northwest of Bukavu, individuals believed by MONUC to be members of the FDLR herded villagers, mostly women and children, into their homes, which the perpetrators then set on fire. The perpetrators used machetes to hack to death those who tried to escape and killed a total of 40 villagers. On July 13, a UN spokesperson said MONUC had discovered mass graves in Ntulumamba and that the remains were believed to be those of the victims of the July 9 attack. The perpetrators had not been brought to justice by year's end. On October 10, members of the FDLR/RASTAS hacked to death 15 civilians, including 8 women and 6 children, in Kaniola, South Kivu, in retaliation for measures taken by the government against the FDLR/RASTAS.

Unlike in the previous year, there were no reports that soldiers of the Rwanda Defense Forces killed civilians.

At year's end there had been no credible investigation, arrests, or indictments in Burundi or the DRC of those responsible for the August 2004 massacre of Congolese

Tutsi refugees in the Gatumba refugee camp in Burundi where at least 152 were killed and more than 100 wounded.

During the year the FNI/Patriotic Resistance Forces of Ituri abducted two Moroccan peacekeepers. They were released within days of their abduction.

Unlike in the previous year, there were no reports of UPC labor camps.

During the year there were numerous allegations of sexual abuse committed by civilian and military personnel of MONUC. Through September, MONUC had conducted and completed more than one hundred investigations. As a result of these investigations, 11 civilian staff members were charged, seven were suspended without pay, and two were suspended with pay pending final decision on disciplinary action. Three UN volunteers were summarily dismissed, and two were reprimanded. Twenty-five MONUC civilian police (including 11 Nigerian police officers found guilty of sexual misconduct) were suspended and repatriated on disciplinary grounds, and 7 UN investigations were ongoing at year's end. By mid-year MONUC had implemented and enforced a new code of sexual conduct for all its personnel.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government sometimes restricted these rights in practice. During the year press freedom deteriorated. There were reports that police or military officers killed at least one journalist, and there were more than 30 reported instances where police and military arrested, detained, threatened, or abused other members of the media. The government temporarily closed several radio and television stations, and journalists practiced self-censorship throughout the year.

Individuals could privately criticize the government, government officials, and private citizens without being subject to reprisal, and during the year individuals often publicly criticized them in the media; however, security forces arrested, detained, and harassed opposition politicians and other high-profile figures for criticizing the government.

On December 29, police arrested Pastor Theodore Ngoy, an opposition politician, for the second time in 15 days. The first arrest occurred during an unauthorized rally by opponents of the constitutional reform. The second arrest followed a complaint lodged by Ngoy, accusing President Kabila of influencing voters after the deadline for the end of campaigning for the December 18 constitutional referendum.

The government required each newspaper to pay a \$500 licensing fee and complete several administrative steps before it could publish legally. There was an active private press, and a large number of daily newspapers were licensed to publish. In general journalists were poorly paid, lacked professional training, and were vulnerable to manipulation by wealthy individuals, government officials, and politicians who paid or provided other benefits to encourage them to write certain types of articles. However, many newspapers were highly critical of the government. Although there was no official newspaper, the government published the *Daily Bulletin*, which included decrees and official statements.

Due to limited literacy and the high cost of newspapers and television, radio remained the most important medium of public information. Numerous privately owned radio stations and privately owned television stations operated, as well as two state-owned radio stations and a state-owned television station. Major political parties represented in the government were generally able to gain access to state radio and television.

Foreign journalists were able to operate freely in the country.

During the year police and military officers allegedly killed at least one journalist; kidnapped another; and arrested, intimidated, harassed, and detained other journalists, often without filing formal charges.

According to New York-based press freedom organization Committee to Protect Journalists (CPJ), on April 4, Tshivis Tshivuadi, secretary general of the Kinshasa-based press freedom organization Journalist in Danger (JED) received an e-mail containing death threats against him. JED President Donat M'baya Tshimanga, and their families. Tshivuadi received the threat one day after giving an interview on Radio France International in which he alleged that the country's politicians were seeking to control local broadcasters during the preparations for national elections.

According to Reporters without Borders (RSF), on May 28, three uniformed soldiers in the Katanga Province town of Lubumbashi attempted to kill Radio Okapi journalist Jean Ngandu. One soldier fired five shots at Ngandu after telling him that he talked too much and that the soldiers were going to "get rid" of him. None of the shots struck Ngandu, and the soldiers fled with Ngandu's bag of radio equipment after a police officer intervened.

According to RSF, on June 30, government security agents in Kinshasa arrested and temporarily detained at least seven journalists and other media personnel of

various media outfits who covered demonstrations by persons protesting election delays. For example government intelligence agents arrested RAGA TV news director Luc Mikomo and RAGA TV technician Jules Mpata and took them to a Gombe neighborhood prison in Kinshasa before releasing them hours later. The government also ordered RAGA TV to cease its live coverage of the opposition demonstrations by the Union for Democracy and Social Progress (UDPS) party for broadcasting three-year-old archival clips as if they were live footage. GSSP agents in Kinshasa arrested a camera operator of the French public station RFO/AITV, temporarily seized his equipment, and detained him for several hours at a military base. Kinshasa police also arrested journalist Mills Tshibangu and camera operator Doudou Mukuna, both of the privately owned RadioTele Kin Malebo, and detained them in police cells before releasing them hours later.

Also on June 30, according to RSF, soldiers in the Bandundu Province town of Kikwit beat and injured Kawanda Bakiman Nkorabishen, chief editor of the local Catholic Church-owned radio station TOMISA, as he was covering a protest march by opposition supporters of the opposition Unified Lumumban Party.

On October 28, ANR agents arrested Jean-Marie Kanku, editor and publisher of the Kinshasa-based newspaper *l'Alerte*, and secretly held him at ANR headquarters for at least six days before taking him to the State Security Court on November 5. The incident followed *l'Alerte's* publication of an interview in which a parliamentarian criticized the alleged incompetence and corruption in the ANR. The court charged Kanku with disseminating "false rumors," and he was released after paying a \$150 bail. His release followed a November 3 meeting between one of the country's vice-presidents and a delegation of journalists.

On November 3, three Kinshasa army officers allegedly killed Franck Kangundu Ngyke, a political reporter at the Kinshasa daily newspaper, *Le Reference Plus*, and his wife as they entered their house. *Le Reference Plus* had in the past been critical of the government and its institutions. On November 21, the inspector general of police presented at a Kinshasa news conference the three army officers suspected of committing the killings. One suspect, 2nd-Lieutenant Mungande Kimbao Joel, denied having any part in the murders and said he only confessed to the crime under torture. On November 7, hundreds of members of the media and press freedom advocates marched in Kinshasa to protest the killings and the intimidation of the press and to demand a transparent investigation of the killings and better protection of journalists. By year's end the trial of the police officers accused of the killing had not taken place.

No action was taken against security forces that beat and harassed journalists in 2004 or 2003.

The government closed or banned radio and television stations during the year. For example on January 18, the government closed for three days two television stations—Canal Congo TV and Canal Kin TV—and a radio station, Radio Liberte Kinshasa. The stations were owned by one of the country's four vice-presidents, former rebel leader Jean-Pierre Bemba, who reportedly was in a dispute with President Kabila.

On January 18, Press and Information Minister Henri Mova Sakanyi banned all religious and specialty radio and television stations from "broadcasting political and news programs" because of their "persistent excesses." He added that they were banned from "serving as a support for political propaganda" and that all phone-in programs were suspended until further notice. The government lifted the ban later in February; however, on December 29 the High Media Authority (HAM) suspended eight television stations for discussing the constitutional referendum on their political talk shows without permission. HAM authorized only a small number of stations to discuss the referendum.

The government suspended a religious television station accused of disseminating ethnic hatred messages during the year (see section 2.c.).

On July 1, police forced RAGA FM, RAGA TV, and RAGA Plus to cease broadcasting and seized broadcasting equipment. On July 1, the High Authority for Media, reportedly under pressure from police, suspended for 10 days RAGA TV and RAGA FM, a private national television station, for broadcasting images of demonstrations in Kinshasa that took place on June 30. The High Authority for Media asserted that the images were from old demonstrations and were broadcast to incite violent demonstrations. In July, local press freedom organization JED criticized the High Authority for Media for its actions. Within days, police had returned the equipment they seized.

Police sometimes seized newspapers from street vendors. There appeared to be no political motive.

The government used criminalized libel laws to suppress criticism and limit press freedom. During the year authorities reportedly imprisoned at least four media per-

sonnel, including two journalists, on charges of defamation. For example, according to CPJ, on January 31, police in the western town of Matadi arrested and imprisoned *La Reference Plus* reporter Jose Wakadila on defamation charges filed by two national oil executives, including Mvumba Ntanda, the brother of Abdoulaye Yerodia, one of the country's vice-presidents. In September 2004 a Kinshasa court had sentenced Wakadila in absentia to 11 months in jail for defamation and ordered him to pay a \$600 fine. The judgment followed a July 2004 article that accused certain directors of the national oil refinery, SOCIR, of corruption. On February 8, a court provisionally released Wakadila after he paid a \$200 bail, and at year's end the newspaper's appeal was pending.

According to JED, on July 11, police in Kinshasa arrested *l'Alerte* publisher Jean-Marie Kanku and charged him with criminal defamation. The charge followed a July 8 article alleging that a government official had misused humanitarian funds. On July 25, authorities released Kanku after he paid a bail of approximately \$10. It was unclear whether a court would try him.

The Ministry of Human Rights and the Ministry of Communication and Press continued to intervene on behalf of journalists facing prosecution and held occasional training workshops.

The government did not restrict access to the Internet.

The government sometimes restricted academic freedom, and in June it prohibited political activity in all universities. The ban, which was criticized by local human rights activists, was reportedly an attempt to prevent protests by students calling for an end to the transitional government on June 30.

Armed groups operating outside government control in the east and local authorities continued to severely restrict freedom of speech and of the press.

Armed groups continued to harass, intimidate, beat, and arrest local journalists. According to a UN news service, in late April, Mai Mai militiamen took five local journalists hostage in Katanga Province, reportedly to protest the arrest of their leader, Mbayo Mwana Butot (alias Chinja Chinja), before they released the journalists 5 days later in exchange for 270 bicycles from MONUC.

Armed groups' treatment of foreign and Radio Okapi journalists improved during the year.

Armed groups took no known credible action against those accused of beating or otherwise abusing journalists or persons critical of their groups in 2004 or 2003.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The constitution provides for freedom of peaceful assembly; however, the government restricted this right in practice. The government considered the right to assemble to be subordinate to the maintenance of "public order" and continued to require all organizers to inform the local city government before holding a public event. According to the law, organizers automatically have authorization to hold an event unless the city government denies authorization in writing within five days of receiving the original notification. Some NGOs reported that in practice, local authorities sometimes denied authorization for an event, mostly on the grounds of preserving public order, after the five-day period by backdating the correspondence. Government security services often dispersed unregistered protests, marches, or meetings.

On June 30, local authorities in Kinshasa denied the UDPS party permission to conduct marches protesting the extension of the transition. The authorities cited public safety reasons for their refusal following statements by UDPS leaders encouraging citizens to overthrow the government.

During the year security forces killed demonstrators while dispersing crowds. On January 10, police killed at least four rioters and wounded more than 30 others in Kinshasa while attempting to disperse a violent crowd. On May 17, police killed two demonstrators and injured five in Mbuji Mayi, Eastern Kasai while attempting to disperse a violent crowd protesting election delays. Demonstrators also reportedly burned alive a policeman. On June 30, during violent nationwide demonstrations, security forces killed 2 individuals in Kinshasa and injured at least 15.

During the year police occasionally arrested demonstrators. For example during riots on January 10, the police arrested approximately 240 persons in Kinshasa. Most were released within a few days, but there were credible reports that a few were still in prison at year's end. On June 30, police arrested approximately 450 demonstrators in Kinshasa who were protesting the extension of the transition government and detained them for one day.

No action was taken against security forces responsible for using excessive force during demonstrations in 2004 or 2003.

The government required political parties to apply for permits to hold press conferences. According to local NGOs, such permits sometimes were denied. For exam-

ple, according to local human rights NGOs, the government three times denied permission for the opposition party UDPS to hold press conferences during the year.

Unlike in the previous year, no demonstrators were killed during crowd dispersal by MONUC forces.

Freedom of Association.—The constitution provides for freedom of association; however, in practice the government sometimes restricted this right. During the year government authorities sometimes harassed political parties, including party leaders. For example the GDRC held Transportation Minister Joseph Olengenkoy's passport for several weeks, preventing him from leaving the DRC.

Unlike in the previous year, there were no reports that armed groups operating outside of government control in the east restricted freedom of assembly and association.

No known action was taken against those RCD–G police and soldiers who killed demonstrators in November 2004 or fired upon activists who had gathered to greet a government delegation in 2003.

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right in practice, provided that worshipers did not disturb public order or contradict commonly held morals.

The law provides for the establishment and operation of religious institutions, and requirements for the establishment of a religious organization were simple and generally not subject to abuse.

Military officers committed violence against religious groups on at least one occasion. On May 7, men in military uniform shot and killed a 71-year-old Belgian Jesuit priest in Kinshasa while they were robbing a grocery store. In early June, police arrested and charged five FARDC deserters with the crime. The victim was in an area that had a high rate of crime, and there was no evidence that he was targeted because he was a priest. In November a court sentenced the five FARDC deserters to death.

During the year there were no reports that the government suspended or dissolved any religious groups. However, the Bundu Dia Kongo, an ethnically based spiritual and political movement that called for the violent overthrow of the government and the establishment of an “ethnically pure” kingdom for the Bakongo tribe, remained outlawed throughout the year.

During the year the government banned all religious radio and television stations from broadcasting political and news programs (see section 2.a.).

On April 27, the High Media Authority suspended religious television station Radio Tele Message de Vie for one month. The suspension followed the station's refusal to give the government tape recordings of a call-in program broadcast between April 9 and 11 that allegedly “incited violence and rebellion.” This particular program edition featured a taped message by Reverend Fernand Couthino, the station's owner, who stated that the transitional government should transfer power to the citizenry on June 30.

While the government generally did not interfere with foreign missionaries, they were not exempt from general restrictions on freedom of movement imposed on all persons by security force members who erected and manned roadblocks, at which they often solicited bribes.

In the east, respect for religious freedom neither deteriorated nor improved. During the year there were no confirmed reports of attacks against priests, parishioners, churches, parish property, or schools.

No action was taken against any armed group members who targeted churches or religious leaders in 2004 or 2003.

Societal Abuses and Discrimination.—The Jewish community was very small, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for freedom of movement; however, the government occasionally restricted this right.

In Kinshasa, police and soldiers erected roadblocks for security checks and to protect government installations. In general, security forces were more aggressive than during the previous year, and there were instances in which drivers were harassed, forced to pay bribes, and forced to transport soldiers for free. In addition underpaid traffic police continued to routinely harass citizens and demand bribes in the course of pulling vehicles over for ostensible traffic violations. Security services and police routinely extorted money from truckers on two national routes.

The government closed certain national roads at night due to banditry.

On April 28, elements of the FARDC 121st Brigade refused an order from the head of their brigade instructing them to return to their retraining camps after arresting and charging road travelers a “tax” of \$0.25 per person per week. They threatened that failure to pay the “tax” would result in the arrest of the village chief; there were no reports of such an arrest by year’s end.

The significant risk of rape perpetrated by uniformed men restricted freedom of movement at night for women in many areas.

Married women were required by law to have their husband’s permission before traveling outside the country. Passport issuance was highly irregular and required the payment of significant bribes (up to \$500). However, there were no reports that certain groups were prevented from acquiring them.

In eastern parts of the country, where armed groups operated outside government control, freedom of movement was severely restricted during the year, partially as a result of fighting between armed groups and government forces, who frequently prevented travel and harassed travelers.

Local authorities in the Kivus routinely required citizens to show official travel orders from an employer or government official authorizing travel.

Armed groups and local authorities frequently imposed travel restrictions on NGOs. Throughout the year banditry and poor security hampered NGO activities in large parts of Ituri (see section 1.g.).

Government soldiers established road, river, airport, market, and lake checkpoints and routinely harassed and demanded bribes from civilians, sometimes detaining those who could not pay extortion fees until a family member paid the toll. Foreigners were forced to go through immigration proceedings at airports, lake ports, and when entering and leaving towns.

On February 16, government authorities confiscated the passport of political opposition leader and former minister of transport Joseph Oleghenkoy. His passport was returned in July, and he subsequently left the country; he remained outside the country at year’s end.

The law prohibits forced exile, and there were no reports that the government used forced exile.

There were reports about mistreatment of repatriated asylum seekers, including imprisonment, beatings, and disappearances. For example, according to a December 1 BBC article containing an interview with an ANR agent, the ANR regularly interrogated all failed asylum seekers who were sent back to the DRC from Europe and, if deemed necessary, detained them at the Kinshasa airport. Authorities sometimes asked returnees for a bribe for their release. According to the BBC article, the ANR, relying on information obtained by the DRC’s embassies in Europe, detained all returnees believed to “have problems with the government,” to have criticized the government, or to be political dissidents. The ANR also worked to identify returnees with connections to Rwanda, who had Rwandan names, or looked Rwandan. The ANR agent said the ANR gave custody of these individuals to authorities but declined to say what happened to them. During the year there were no other reports that corroborated the accounts contained in the BBC article.

During the year more than 20 thousand DRC refugees returned to the country. For example between January and August the Office of the UN High Commissioner for Refugees (UNHCR) facilitated the return to Equateur Province of approximately 2 thousand DRC refugees from the Central African Republic and 2,500 from the Republic of the Congo.

Citizens harassed some Tutsi refugees who returned to South Kivu; however, by year’s end there were no further reports of harassment, and additional repatriations were planned by UNHCR.

Unlike in the previous year, there were no reports that local officials in South Kivu or other eastern areas attempted to prevent the return of DRC refugees.

According to the UNHCR, at year’s end approximately 372 thousand Congolese refugees were living in several neighboring countries, including Tanzania (155,000).

Internally Displaced Persons (IDPs).—As of November, the UN Office for the Coordination of Humanitarian Affairs (OCHA) estimated that there were almost 1.66 million IDPs in the country, the majority of whom were reportedly in the east, mostly concentrated in North Kivu, Orientale, and Katanga. In November, fighting between the national army and local Mai-Mai militiamen resisting demobilization displaced 20 thousand inhabitants of Katanga Province. In addition OCHA reported in November 2005 that there were an estimated 310 thousand IDPs in the Ituri region, an estimated 502,500 IDPs in North Kivu, and 351,500 IDPs in South Kivu. Many of the IDPs received no assistance because of ongoing fighting and the denial of access to NGOs by armed groups.

On several occasions, armed groups denied access to humanitarian organizations or obstructed their ability to deliver humanitarian relief supplies. For example in

Ituri, armed groups killed peacekeepers, kidnapped humanitarian workers, and regularly attacked vehicles (see section 1.g.). In April there were reports that armed militia groups near Bunia detained humanitarian workers on their way to and from IDP camps, stole equipment, and threatened NGOs. Many NGOs were forced to relocate numerous times to escape fighting (see section 1.g.).

No known action was taken against soldiers who erected illegal checkpoints, attacked fleeing IDPs, or restricted UN or humanitarian access in 2004 or 2003.

During the year IDPs died as a result of a lack of humanitarian aid. According to MSF, in early March 25 IDPs died within 6 days due to a lack of relief aid and an “alarming” health situation in the Tche IDP camp in the Ituri District of Orientale Province. In addition a UN official said approximately 40 IDPs had died in IDP camps in and around Kakwa, north of the Ituri town of Bunia, between February 28 and March 3. On February 28, humanitarian organizations suspended aid to more than 54 thousand IDPs near the areas of Kakwa, Tche, and Gina due to security concerns.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a very basic system for providing protection to refugees. In practice, the government granted refugee and asylum status and provided protection against *refoulement*, the return to a country where individuals feared persecution. The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. The government also provided temporary protection to an unknown number of individuals who may not have qualified as refugees under the 1951 convention and its 1967 protocol.

According to the UNHCR, by November the country was hosting an estimated 250 thousand refugees, including refugees from Angola, Sudan, and Burundi.

In May there were reports that uniformed and armed men, were recruiting children in two Rwandan refugee camps for use as soldiers. There were no further reports of such activities by year’s end (see section 5).

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

Citizens did not have the right to change their government peacefully and have not been able to change their government through free elections since independence in 1960.

Elections and Political Participation.—Joseph Kabila continued to serve as president under the transitional government. There are four vice presidents: two from the main former rebel groups, one from the political opposition, and one from civil society. The bicameral parliament, as established under the transitional constitution, includes members from these groups, civil society, and smaller, former rebel movements. There are also five “citizens’ institutions”: an Observatory for Human Rights, a Truth and Reconciliation Commission, a High Authority for Media, an Ethics and Anti-Corruption Commission, and the Independent Electoral Commission. The transitional constitution of 2003 called for national general elections within two years but allowed for two six-month extensions as needed for logistic and technical reasons. During the year many citizens accused politicians of delaying the elections to continue benefiting from their positions of power in the transitional government.

During the year the Independent Electoral Commission conducted a massive voter registration drive in anticipation of the 2006 national general elections. The drive was marred by isolated cases of violence (see section 1.b.) and fraud; however, by year’s end the commission—with support from the UN—had registered approximately 25 million eligible voters, including approximately 1.5 million in the eastern district of Ituri. On August 22, unidentified militiamen shot and killed an electoral official when they attacked two voter registration centers in Djugu and Irumu in the northeastern district of Ituri. No additional information was available at year’s end.

On November 14, the Independent Electoral Commission announced that authorities had caught more than 150 thousand individuals who registered to vote twice in Kinshasa, where registration ended in July.

On December 18, voters across the country overwhelmingly approved a new constitution in a free and fair national referendum.

The law allows legally registered political parties to operate freely; however, authorities occasionally continued to arrest political activists and to block some activities, including marches and demonstrations (see section 2.b.). Authorities in areas outside the national capital tended to impose more limits on civil and political liberties.

Five of 36 cabinet ministers and 3 of 24 vice ministers were women. Women held 60 of the 620 seats in parliament.

Pygmies had their own political party, based in Kinshasa, and one representative in the National Assembly.

Government Corruption and Transparency.—Corruption was still endemic at all levels. Many civil servants, police, and soldiers have not been paid in years, have received irregular salaries, or did not earn enough to support their families, all of which encouraged corruption. For example local authorities and remnants of rebel groups continued to extort “taxes” and “fees” from boats traveling on many parts of the Congo River. In addition government authorities and wealthy individuals sometimes restricted the freedom of press and speech on occasions when there were accusations of corruption (see section 2.a.). According to a Transparency International report released during the year, most citizens said they believed official corruption was rampant in their country. The Ethics and Anti-Corruption Commission had little impact by year’s end.

During the year authorities arrested journalists who had accused government officials of corruption (see section 2.a.).

During the year there were reports that civil servants working as professors at the University of Kinshasa extorted money from students in exchange for good grades. The university’s rector said less than 10 percent of the university’s professors engaged in such corruption and that a few professors were suspended during the year.

During the year the government took a few steps to combat corruption. On October 11, the head of the national tax bureau was arrested for embezzlement.

The law does not provide for public access to government information, and the government was unable to provide information upon request.

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

A wide variety of domestic and international human rights NGOs continued to investigate and publish their findings on human rights cases. The Human Rights Ministry and the Observatory for Human Rights worked with NGOs during the year and were responsive to their requests and recommendations. However, during the year prison officials sometimes obstructed NGO access to detainees, and security forces’ personnel harassed and arrested domestic human rights workers.

The main Kinshasa-based domestic human rights organizations included Voices for the Voiceless (VSV); Groupe Jeremie; the Committee of Human Rights Observers; The Christian Network of Human Rights and Civic Education Organizations; Observatoire; and the African Association for the Defense of Human Rights.

Security forces throughout the country employed violence against, arbitrarily arrested, and harassed domestic human rights NGOs and civil society members.

On July 31, soldiers reportedly shot and killed Pascal Kabungula Kibembi, executive secretary of the human rights NGO Heirs of Justice, in his home in Bukavu, South Kivu. In August, South Kivu governor Didas Kaningini said security agents had arrested five army officers accused of the killing. These army officers remained in jail awaiting trial at year’s end. On December 12, police also arrested FARDC officer Thierry Ilunga and Kaningini for the murder of Kabungula. The two men were taken to prison, but due to political pressure were later released on bail. Human Rights Watch reported that armed men in uniform broke into Kabungula’s home, dragged him out of his bedroom, told him they had been searching for him, and shot him in front of his family. The investigation into this incident was ongoing at year’s end.

On October 7, police arrested Maurice Bahati Namwira, a member of Heirs of Justice, for the murder of Kabungula. Police interrogated him without a witness and transferred him to the Kinshasa central prison where he was held with others accused of the crime. By year’s end he had been released.

During the year Floribert Chebeya, the president of VSV in Kinshasa, returned to the country following harassment by unidentified men in 2004.

Domestic human rights activists self-censored reports about corruption and human rights abuses committed by certain government officials because they feared arrest.

The government cooperated with international governmental organizations and NGOs and permitted international humanitarian and human rights NGOs access to conflict areas. A number of UN representatives and international NGOs visited the country during the year. During the year international NGOs, including Amnesty International (AI) and Human Rights Watch (HRW), and international organizations such as the UN published several reports on the human rights and humanitarian situation.

In January, a UN panel of experts accused the government of Uganda of continuing to illegally funnel weapons, including land mines, and military support into the DRC to the FAPC, an Ituri-based militia group, despite a 2002 UN embargo prohibiting the delivery of military equipment to any recipient in the DRC other police, military, or MONUC personnel. It also accused the FAPC of controlling key gold fields in northern Ituri and using the gold to purchase weapons from the Ugandan government. In addition the panel accused the Rwandan government of continuing to maintain a “covert residual presence” in the DRC, despite officially withdrawing in 2002. The panel said the Rwandan government was recruiting children of the DRC living in refugee camps in Rwanda and training them to be soldiers. The governments of Rwanda and Uganda denied all the panel’s charges.

In February, Juan Mendez, special advisor to the UN secretary-general and president of the International Center for Transitional Justice, called on the government to investigate and prosecute former militia leaders suspected of perpetrating massacres and other war crimes instead of appointing them to high-ranking positions in the integrated national army. Mendez made the appeal a few weeks after the government commissioned four suspected human rights violators as army generals. Under the peace agreement reached in 2003, former rebels could be assimilated into the national army.

A June report by HRW highlighted the role of local militias in illegal exploitation of the country’s resources and their alleged ties to neighboring Uganda and Rwanda. According to the report, *The Curse of Gold*, militias have in recent years used gold mining proceeds to buy weapons to commit human rights violations and consolidate control over the most productive mining areas. MONUC has also noted the close link between the illegal exploitation of natural resources and violence.

According to a July 7 report by AI, during the year large quantities of arms trafficked into the DRC and the surrounding region continued to be channeled by powerful agents close to the governments of Rwanda, Uganda, and the DRC to various armed groups and militia in eastern DRC. The report alleged that arms dealers and transporters in Russia, South Africa, Eastern Europe, North America, and the Middle East were facilitating human rights violations by illegally exporting arms to the DRC. AI called on the UN to renew and strengthen the embargo on arms exports to the DRC and ensure that all airports in the eastern DRC were monitored by UN inspectors 24 hours a day.

According to a report by a UN group of experts delivered to the UN Security Council on July 27, the governments of Uganda and Rwanda did not respond to officials monitoring arms sanctions in the DRC. For example the reported highlighted the Rwandan government’s failure to provide information requested on a number of occasions on the whereabouts of DRC rebel leaders Colonel Mutebutsi and General Nkunda, whom many observers have accused Rwanda of supporting. The report said weak border controls allowed for “lucrative alliances between leaders of armed groups and unscrupulous businessmen.” In addition the report underlined “significant inconsistencies” in statistics provided by the governments of Rwanda, Uganda, and the DRC on the production, import, and export of metals. The report recommended extending arms sanctions in the DRC. The governments of the Rwanda and Uganda denied delaying the work of the UN and failing to respond to queries.

The government continued to cooperate with the International Criminal Tribunal for Rwanda (ICTR). ICTR investigators operated freely in areas under government control, seeking a number of individuals indicted for involvement in the 1994 Rwandan genocide whom they believed might be living in the DRC.

During the year the International Criminal Court continued conducting investigations into war crimes and crimes against humanity committed in the country since July 2002.

The constitution provides for an independent Human Rights Observatory and a Truth and Reconciliation Commission. Both bodies functioned during the year but lacked sufficient staff and resources to be truly effective.

In eastern areas of the country, domestic human rights NGOs and civil society members were subjected to frequent harassment and abuse, particularly in Ituri. Prominent organization operating in areas outside Kinshasa included Heirs of Justice in South Kivu; Lotus Group and Justice and Liberation in Kisangani; and Justice Plus in Bunia. Unlike in the previous year, there were no reports that armed groups in the east killed or raped humanitarian workers. However, 11 UN peacekeepers were killed by armed groups during the year. Armed groups frequently imposed travel restrictions on persons who provided humanitarian aid, human rights NGOs, and journalists (see sections 1.g. and 2.d.).

There were at least 30 local NGOs operating in Ituri District. In Ituri and other eastern parts of the country, the capacity of local NGOs remained weak and subject to corruption. According to an April 8 UN media report, only a single local NGO,

the Bukavu-based Association for Social and Community Development, was able to comply with the accounting, reporting, and monitoring standards required to work on projects with international organizations such as the UN Development Program.

International NGOs active in eastern areas of the country included the ICRC, Global Rights, HRW, and various humanitarian organizations. Although most armed groups permitted international humanitarian and human rights NGOs access to conflict areas, certain groups in Ituri and South Kivu regularly harassed persons who provided humanitarian aid and levied illegal taxes at ports and roadblocks (see section 1.g.). Armed groups generally allowed international NGOs such as AI and HRW to conduct investigations and publish reports; however, there were some exceptions.

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

The constitution prohibits discrimination based on ethnicity, sex, or religious affiliation; however, the government was unable to enforce these prohibitions effectively. Private citizens and some extremist religious groups incited violence against street children. Societal discrimination remained an obstacle to the advancement of certain groups, particularly women and indigenous Pygmies (Batwa). There were also reports of discrimination against individuals suspected of being infected by HIV/AIDS.

Women.—Domestic violence against women, including rape, was common throughout the country; however, there were no known statistics on the extent of this violence. Assault and rape are crimes; judges set the penalties, and the laws establish minimum penalties as well. Police rarely intervened in domestic disputes, and rapists were very rarely prosecuted. There were no laws prohibiting spousal abuse or assault. It was common for family members to instruct a rape victim to keep quiet about the incident, even to health care professionals, to save the reputation of the victim and her family. The press rarely reported incidents of violence against women or children; press reports of rape generally appeared only if it occurred in conjunction with another crime, or if NGOs reported on the subject.

Armed groups used rape as a weapon of war, and government security forces committed rapes as well (see section 1.g.).

Victims and experts cited widespread impunity as the main reason sexual violence continued. A small number of sexual violence cases, mostly committed by civilians, have been brought to court. In general, however, most victims did not have sufficient confidence in the justice system to be willing to subject themselves to further humiliation and possible reprisals by pursuing formal legal action.

Girls and women who had been raped often found it difficult to get married, and married women who were raped were often abandoned by their husbands.

The law does not prohibit female genital mutilation (FGM). Although FGM was not widespread, it was practiced on young girls among isolated groups in the north. The National Committee to Fight Harmful Traditional Practices/Female Genital Mutilation continued to develop a network of community leaders, women representatives, and health professionals dedicated to the prevention and treatment of FGM; however, the committee lacked adequate resources for prevention and treatment.

The law does not prohibit prostitution except in cases involving children under the age of 14. Prostitution, including child prostitution, was a problem mainly due to poor economic conditions, and there were reports of women and girls pressured or forced to engage in prostitution by their families. There was no statistical information available on the extent of adult or child prostitution in the country. Security forces encouraged prostitution and used prostitutes, and there were unconfirmed reports that security forces harassed and raped prostitutes.

There were reports that women were trafficked (see section 5, Trafficking).

There were no laws preventing sexual harassment, and the extent of the problem was unknown.

Women were relegated to a secondary role in society. They constituted the majority of primary agricultural laborers and small-scale traders, and they almost exclusively were responsible for child rearing. In the formal sector, women commonly received less pay than men for comparable work and rarely occupied positions of authority or high responsibility.

The law required married women to obtain their husband's permission before engaging in routine legal transactions, such as selling or renting real estate, opening a bank account, accepting employment, or applying for a passport. The law permits a woman to inherit her husband's property, to control her own property, and to receive a property settlement in the event of divorce; however, in practice women often were denied these rights, which in some cases was consistent with traditional law. The deceased husband's family commonly stripped widows of all possessions—as well as their dependent children. Human rights groups and church organizations

worked to combat this custom, but there was little government intervention or legal recourse available. Women also were denied custody of their children in divorce cases, but they retained the right to visit them. Polygyny was practiced, although it was illegal. Father-child relationships resulting from polygynous unions were recognized legally, but only the first wife was recognized legally as a spouse.

There were a number of active and effective women's groups throughout the country.

Children.—Government spending on programs for children's welfare was almost nonexistent. Primary school education was not compulsory, free, or universal. In public schools, parents were required to pay a small fee and were expected—although not required—to pay teachers' salaries. These fees plus the loss of labor while the child was in school meant parents often could not afford to enroll their children. During the year despite government efforts to abolish all school fees, fiscal constraints on the government and a prolonged teacher strike for higher pay resulted in continued parental contributions to school costs, albeit at a reduced level. According to the UN Children's Fund (UNICEF), net primary school attendance was 55 percent for boys and 48 percent for girls. Attendance rates for girls were lower because parents with meager financial resources preferred to send their sons to school.

At least 8 thousand children were victims of polio. Local and international health officials continued to fight the virus. For example on September 12, local health authorities and UNICEF launched a campaign to vaccinate 10 million children against polio in 6 provinces bordering Angola.

The extent of child abuse was unknown and had not been investigated. However, the accusation of witchcraft against children by certain extremist churches has led to cases of child murder, child abuse, and child abandonment.

FGM was not widespread but was performed on girls among isolated ethnic groups (see section 5, Women).

Although the legal age of marriage is 15 for girls and 18 for boys, underage marriage involving girls younger than 15 was widely accepted. In many rural areas, a significant number of girls got married at the age of 13. According to a 2001 UNICEF study, the average age of marriage was 26 for males and 21 for females. Dowry payments greatly contributed to underage marriage. In some cases parents married off a daughter against her will to collect a dowry payment or to finance a son's dowry payment to his future wife. Underage marriage limited girls' access to education and led to unsafe pregnancies.

Trafficking was a problem (see section 5, Trafficking), and child prostitution was a problem (see section 5, Women).

The FARDC and other armed groups continued to have child soldiers in their ranks. Unlike in the previous year, there were no reports that the government provided support to armed groups that continued to recruit child soldiers. The government continued to collaborate with UNICEF and other partners to demobilize children associated with the FARDC and armed groups.

In eastern parts of the country, where armed groups operated outside government control, children committed and were victims of serious crimes. Credible estimates of the total number of children associated with armed groups varied widely from 15,000 to 30 thousand, many of whom were between 14 and 16. Armed groups, including Mai Mai, continued to abduct and forcibly recruit children to serve as forced laborers, porters, combatants, "war wives," and sex slaves (see sections 5, Women and Trafficking, and 6.c.).

In May an international organization reported that uniformed armed men were recruiting Congolese children in two Rwandan refugee camps for use as soldiers. According to the organization's report, on May 10, 45 children between the ages of 10 and 18 climbed onto a truck parked outside the entrance to Kiziba Camp in Rwanda's Kibuye Province, and their whereabouts were still not known by year's end. Parents in the camp told the organization's representative that the militia, which they said was the RCD-G, intended to attract at least a total of 80 new recruits. However, the organization's representative received differing reports; a local government official attributed the recruitment to Ugandans, while other sources indicated that members of the Rwandan military were recruiting in one of the camps. There were no further reports of such activities by year's end.

There were numerous reports that some local authorities in the country attempted to recruit child soldiers for armed groups, although there was no specific information that they or higher-level officials assisted traffickers for bribes or other compensation. There were no reports that action had been taken against those accused or suspected of facilitating recruitment of child soldiers, or other forms of trafficking.

In anticipation of a national military census, some armed group commanders reportedly recruited child soldiers and regularly diverted the salaries of child soldiers for their own gain.

Girls associated with armed groups were often assaulted, raped, and infected with HIV/AIDS. According to *Forgotten Casualties of War*, a report published in August by the NGO Save the Children, 12,500 girls belonged to government and non-government forces, and a program to disarm, demobilize, and reintegrate all militias into society was failing these girls. According to the report, the girls did not see themselves as child soldiers, but as “wives” or camp followers and therefore did not believe they were entitled to demobilization and reintegration benefits. In addition the NGO said the disarmament, demobilization, and reintegration process informed communities that girls were involved with armed groups, triggering community rejection of them. Girls told the NGO that community members assumed them to have been sexually abused and to be carriers of HIV and sexually transmitted diseases. As a result, they were seen as having “lost their value” to their communities.

Child labor, including forced child labor, was a problem (see sections 1.g. and 6.d.).

According to UNICEF, between 25 thousand and 50 thousand child refugees, war orphans, and children accused of witchcraft or sorcery lived on the streets throughout the country, although some of those who were not orphans returned to their families at day’s end. So-called child sorcerers were accused of having mystical powers and their families often abandoned them, most often because of socio-economic difficulties. The government was ill-equipped to deal with large numbers of street children.

There was widespread discrimination and violence by average citizens against these children, who were widely perceived to be street thugs engaged in petty crime, begging, and prostitution. There were numerous reports of collusion between police and street children, including street children who paid police officers for the right to sleep in abandoned buildings, and children who paid police a percentage of goods they stole in large markets. In addition there were reports that different groups and individuals regularly rented groups of these children to disrupt public order.

Violence against street children continued during the year. Soldiers and police subjected street children to harassment. Security forces in Kinshasa rounded up street children and there were unconfirmed reports that police transferred them outside the city. For example on November 4, police arrested more than 430 “vagrants,” including more than 70 street children, and detained them with adults (see section 1.d.).

During the year there were reports that mobs killed street children. In Mbuji-Mayi, Eastern Kasai, a group of adults, reportedly incited by extremist religious organizations, burned to death several children suspected of witchcraft.

No action had been taken against those responsible for killing alleged child sorcerers in 2004 or 2003.

There were several active and effective local and international NGO groups working with MONUC and UNICEF to promote children’s rights throughout the country, and with the government’s national committee on disarmament, demobilization, and reintegration.

Trafficking in Persons.—There were no specific laws prohibiting trafficking in persons, and trafficking occurred. There are laws that prohibit slavery, rape, and prostitution of children under the age of 14 that could be used to prosecute traffickers; however, the laws rarely were enforced. During the year the government did not investigate or prosecute any cases against traffickers.

There was no information available on reports from late 2004 that persons were recruiting children in South Kivu for use as child soldiers.

Internal trafficking for forced labor and forced sexual exploitation occurred, and child prostitution were reported. The majority of reported trafficking occurred in the northeast and east.

In eastern parts of the country, armed groups operating outside government control continued to kidnap men, women, and children and force them to provide menial labor and sexual services for members of armed groups (see sections 1.g. and 6.c.). In addition armed groups abducted children to serve as combatants in areas under their control (see section 5, Children).

The government had few programs in place to prevent trafficking. The Ministry of Women’s and Family Affairs and Labor implemented an action plan against sexual exploitation in conjunction with an international organization. In addition the government coordinated with other countries on trafficking issues and attended some regional meetings on trafficking in persons. However, government efforts to combat trafficking were limited by a lack of resources and information and because much of the country’s trafficking problem was related to the use of children associ-

ated with armed groups operating outside of government control. The government had few resources for training; however, it permitted training of officials by foreign governments and NGOs. The government had no funding available for protection services. Victims were not prosecuted.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities; however, persons with disabilities were subjected to discrimination in employment, education, and the provision of other government services. Persons with disabilities were exempt from some civil laws, such as paying some taxes, or in some cases, paying customs duties.

The law does not mandate accessibility to buildings or government services for persons with disabilities. There were some special private schools that used private funds and limited public support to provide education and vocational training to students who were blind or had physical disabilities.

National/Racial/Ethnic Minorities.—There were at least 200 separate ethnic groups, which generally were concentrated regionally and spoke distinct primary languages. There was no majority ethnic group; some of the largest ethnic groups were the Luba, Kongo, and Anamongo. Four indigenous languages—Kiswahili, Lingala, Kikongo, and Tshiluba—had official status. French was the language of government, commerce, and education. Societal discrimination on the basis of ethnicity was practiced by members of virtually all ethnic groups and was evident in private hiring patterns in some cities. President Kabila's cabinet and office staff were geographically and ethnically diverse. However, a significant amount of political influence remained in the hands of individuals from Katanga.

Birth on national territory did not necessarily confer citizenship. The constitution that citizens approved in December and the 2004 nationality law provide means to acquire nationality for immigrants, as well as for longtime residents—including certain Congolese Tutsis from South Kivu, known as Banyamulenge—whose ancestors had immigrated to the country.

The constitution allows citizens to hold only Congolese nationality. The president of the Tutsi community in Goma, Dunia Bakarani, said this provision was biased and discriminated against Tutsis. In September, following the return of approximately 700 Congolese from Rwanda to the North Kivu town of Goma, the Independent Electoral Commission disqualified almost 500 individuals attempting to register as voters for the 2006 national general elections because they held dual citizenship, according to election officials.

FARDC soldiers and Mai Mai in South Kivu occasionally harassed, arbitrarily arrested, and threatened Banyamulenge, a minority group of Congolese Tutsis from South Kivu.

Unlike in the previous year, there were no reports of any armed groups forcing other ethnic group members to work in labor camps.

Indigenous People.—The country had a population of fewer than 10 thousand Pygmies (Batwa), who were believed to have been the country's original inhabitants; during the year societal discrimination against them continued. Although they were citizens, most Pygmies continued to live in remote areas and took no part in the political process.

Unlike in the previous year, there were no reports that some tribes used Pygmies as slaves.

Incitement to Acts of Discrimination.—Unlike in the previous year, anti-Tutsi sentiments—including appeals to force Tutsis into exile and practice discrimination toward Tutsis in regard to citizenship rights—were not expressed in private media or government-affiliated media. There were no known reports that government members encouraged hate speech against Tutsis.

A provincial leader in Katanga attempted via local media to incite acts of discrimination against persons from Western and Eastern Kasai in October. No official action had been taken against the leader by year's end.

Section 6. Worker Rights

a. The Right of Association.—The law permits all workers, except magistrates and military personnel, to form and join trade unions without prior authorization; workers formed unions in practice. Since the vast majority of the country's economy was in the informal sector, only a small percentage of the country's workers were organized.

The Labor Code prohibits discrimination against unions, although this regulation was not enforced effectively. The law also requires employers to reinstate workers fired for union activities.

Labor unions functioned countrywide, though they were generally weak. MONUC reported that authorities arrested at least one trade union representative during the year.

b. The Right to Organize and Bargain Collectively.—The law provides for the right of unions to conduct activities without interference and the right to bargain collectively; however, in practice the government did not protect these rights, due in part to a lack of resources, and collective bargaining was not used in practice. In the public sector, the government set wages by decree, and the unions could only act in an advisory capacity. There are no export processing zones.

The law provides for the right to strike, and workers exercised this right in practice. The law requires unions to have prior consent and adhere to lengthy mandatory arbitration and appeal procedures. During the year there was increased labor union activity, and public sector unions organized several legal strikes to call for increased wages and back pay. By year's end most civil servants' salaries were not current, and most arrears had not been addressed. Some arrears were paid to certain workers with particularly effective unions or critical jobs.

The law prohibits employers or the government from retaliating against strikers, and in practice this law generally was respected during the year.

c. Prohibition of Forced or Compulsory Labor.—Although the law prohibits forced or compulsory labor, including by children, there were reports that such practices occurred (see sections 5 and 6.d.).

Unlike in the previous year, there were no reports that some tribes used Pygmies as slaves.

Soldiers used forced labor during the year (see sections 1.g., 5, and 6.d.).

There were numerous reports that armed groups operating outside government control in the east used forced labor. Armed groups routinely forced civilians to carry heavy loads, including looted household items and livestock, for long distances without pay, and abducted men, women, and children and forced them to work in rural areas.

Armed groups and, to a lesser extent, government forces, abducted women and children and forced them to provide household labor or sexual services for periods ranging from several days to several months (see section 5). Specific information was difficult to obtain due to limited NGO access and victims' reluctance to discuss their experiences because of possible reprisal from the perpetrators and the social stigma attached.

Unlike in the previous year, there were no reports of forced labor camps.

d. Prohibition of Child Labor and Minimum Age for Employment.—There are laws to protect children from exploitation in the workplace; however, the government did not effectively implement these laws, and child labor was a problem throughout the country. The employment of children of all ages was common in the informal sector and in subsistence agriculture, which were the dominant portions of the economy. Such employment often was the only way a child or family could obtain money for food. The legal minimum age for full-time employment without parental consent is 18 years. Employers legally may hire minors between the ages of 15 and 18 with the consent of a parent or guardian, but those under age 16 may work a maximum of four hours per day. Larger enterprises reportedly did not exploit child labor. Neither the Ministry of Labor, which was responsible for enforcement, nor labor unions effectively enforced child labor laws.

Reliable statistics on child labor were not available; however, according to data collected by UNICEF between 1999 and 2003, an estimated 28 percent of children between the ages of 5 and 14 were involved in child labor activities at the time of the survey. UNICEF considered a child to be involved in labor activities according to the following classification: first, children 5 to 11 years old who, during the week preceding the survey, did at least 1 hour of economic activity or at least 28 hours of domestic work; and second, children 12 to 14 years old who, during the week preceding the survey, performed at least 14 hours of economic activity, or at least 42 hours of economic activity and domestic work combined.

There continued to be reports that forced child labor occurred (see sections 5 and 6.c.). Some parents forced their children to leave school and beg in the streets, hunt or fish, or engage in prostitution to earn money for their families.

In eastern parts of the country, where armed groups operated outside government control, there were numerous credible reports that armed groups used forced child labor, including the recruitment of children—sometimes reportedly with the aid of local Congolese officials—for use in armed conflict conducted by armed groups, and the use of girls as sex slaves and prostitutes (see sections 2.d., 5, and 6.c.).

Children, including child soldiers, were involved in the illegal exploitation of natural resources in Ituri District to the benefit of their militia commanders. For exam-

ple according to an August 25 article in the *Christian Science Monitor*, in a gold mine near the Ituri District town of Mongbwalu, approximately 40 percent of the miners were under 18, and approximately 25 percent of all miners were between 12 and 14 years old. Many of the children said they were former militia members. For a full day's work, each miner was usually paid three buckets of mud, sand, and rocks from the mine, including all the gold that might have been in the buckets. According to the BBC, the FNI, which continued to benefit from mining taxes, controlled the gold mines in the Mongbwalu area of Ituri.

There were continued reports that re-recruitment of former child soldiers took place to secure mine labor for armed groups. There continued to be reports that, often because of economic necessity, children worked in mines extracting colombo-tantalite ore, or coltan, used to make mobile telephones.

e. Acceptable Conditions of Work.—Most citizens were engaged in subsistence agriculture or commerce outside the formal wage sector. The average wage did not provide a decent standard of living for a worker and family, and most workers relied on extended family and informal economic activity to survive. Minimum wage laws continued to be suspended at year's end. Civil servant salaries remained very low, ranging anywhere between \$4 and \$20 per month, and salary arrears continued to be a problem (see section 6.b.). However, depending on their position, civil servants—including police and soldiers—frequently supplemented their incomes by extracting bribes and various other practices of corruption.

The maximum legal workweek (excluding voluntary overtime) was 48 hours. One 24-hour rest period was required every seven days, however no monitoring or enforcement mechanism existed.

The Labor Code specifies health and safety standards; however, the Ministry of Labor did not effectively enforce these standards. No provisions in the Labor Code permit workers to remove themselves from dangerous work situations without jeopardizing their continued employment.

In the eastern parts of the country, where armed groups operated outside government control, most citizens relied on informal economic activity, humanitarian aid, and scavenging in the forest to survive. Due to extended pillaging, extortion by armed groups, and instability forcing families to flee their homes and crops, poverty and economic hardship generally were more severe in eastern areas such as the Kivus, northern Katanga, and Ituri than in other parts of the country. Salary arrears for police, soldiers, and other public officials encouraged extortion and theft from the population.

REPUBLIC OF CONGO ¹

The Republic of Congo, with a population of approximately three million, is a parliamentary republic in which most of the decision-making authority and political power is vested directly in the president, Denis Sassou-Nguesso, and his administration. The 2002 presidential elections and parliamentary elections for the Senate and the National Assembly were determined “not to contradict the will of the people” by independent monitors; however, there were some flaws and irregularities in the administration of the elections. While the civilian authorities generally maintained effective control of security forces, there were instances in which members of the security forces acted independently of government authority.

The government's human rights record remained poor; although there were some improvements, serious problems remained. The following human rights problems were noted:

- mob violence, including killing of suspected criminals
- security force beatings, physical abuse of detainees, rapes, looting, solicitation of bribes, and theft
- uncontrolled and unidentified armed elements harassed, and extorted civilians and international NGO workers in the Pool region
- poor prison conditions
- impunity
- arbitrary arrest

¹The U.S. Chancery in Brazzaville was destroyed in the 1997 civil war, and there is no American chancery or interim office space in the country. However, American diplomats are assigned to Kinshasa and travel by boat to Brazzaville on extended temporary duty status to cover the full range of bilateral issues.

- lengthy pretrial detention
- corrupt and ineffective judiciary
- infringement on citizens' privacy rights
- limits on freedom of the press
- limits on freedom of movement in some areas of the Pool region
- government corruption and lack of government transparency
- domestic violence and societal discrimination against women
- reports of trafficking in persons
- discrimination on the basis of regional ethnicity, particularly against Pygmies
- child labor

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 that the government or its agents committed any politically motivated killings; however, there were a few reports that security forces killed civilians in the Pool region.

Unlike in the previous year, there were no reports of deaths during apprehension or while in custody.

There were no reported developments in the 2004 case of a person who was beaten to death while in police custody.

No action was taken against members of the security forces responsible for civilian deaths in 2003 and 2004.

There continued to be occasional deaths due to mob violence, as civilians took vigilante action against presumed criminals, or as individuals settled private disputes. For example, in January, after a man killed another in an altercation, his neighbors attacked and killed him. In September angry villagers killed an Italian missionary who was in a convoy, when one of vehicles accidentally hit and killed a small child. Three villagers were arrested and brought to Brazzaville to await trial. They were still being detained awaiting trial at year's end. Police at times intervened to stop mob violence.

In several instances where presumed or actual police or military personnel engaged in looting of civilian residences, local inhabitants frequently took the law into their own hands to punish the thieves; on several occasions death or serious injury resulted. Incidents such as these were most common in remote areas. During the year there was also a case where the leaders of a rural village beat an alleged thief, who subsequently died from his injuries.

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

The daughter of a local nongovernmental organization (NGO) employee, who was reported missing in 2003, remained missing at year's end.

On July 19, after considerable delay, the "Beach" trial opened in the Brazzaville criminal court to hear the 1999 case of 353 persons who were separated from their families by security forces upon returning to Brazzaville from the Democratic Republic of the Congo (DRC). They subsequently disappeared and were presumed killed. On August 16, the court acquitted the high-ranking military and police officials accused of killing the victims. However, the government was found culpable for not ensuring the safety of the victims as they returned to the country and was ordered to pay approximately \$20,000 (10 million CFA francs) to the 86 victims' families. The claimants appealed the settlement to the Supreme Court and the case was ongoing at year's end.

c. Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment.—Although the law prohibits such actions, security forces sometimes used beatings to coerce confessions or to punish detainees. During the year, there were reports that abuses continued in the jail system.

During the year military, gendarmerie, and police forces occasionally beat civilians and looted homes.

During the year, there were reports by NGOs that female detainees were raped and that members of the security forces beat citizens. For example, in August a police officer reportedly beat a man in front of his wife and children for arguing with him.

In certain areas of the Pool region unidentified armed elements, some of whom could be uncontrolled government security forces or former Ninja rebels, continued to rob trains and harass civilians and international NGO workers. There were reports by NGOs and members of the private sector that unidentified armed elements

also extorted bribes in the Pool region. The government investigated these reports but was unable to determine the identity of the perpetrators.

During the year unorganized mobs often assisted property owners in beating and sometimes killing suspected thieves in the southern sector of Brazzaville (see section 1.a.).

Prison and Detention Center Conditions.—Prison conditions were poor due to overcrowded facilities and lack of resources to provide food or health care to the inmates. The Ministry of Justice continued to repair some prisons during the year; however, lack of funds hindered efforts to improve physical facilities and to provide food and medicine.

During the year there continued to be reports that detainees held at police stations often were subjected to beatings, overcrowding, and extortion.

Women were incarcerated with men, except in the city of Brazzaville where separate facilities were maintained; juveniles were held with adults; and pretrial detainees were held with convicted prisoners.

The government continued to grant access to prisons and detention centers to domestic and international human rights groups. Local human rights groups, including the Congolese Observatory for Human Rights, the Association for the Human Rights of the Incarcerated, the National Council for the Promotion and Protection of the Rights of Detained Persons, and a Catholic Church organization visited prisons during the year. The International Committee of the Red Cross (ICRC) continued regular visits to prisons and detention centers in Brazzaville and Pointe Noire.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, members of the security forces committed such acts. There were fewer reports of arbitrary arrest and detention than in previous years. Local and international NGOs reported that members of the security forces commonly used arbitrary arrest and detention to extort funds from citizens.

Role of the Police and Security Apparatus.—The security forces include the police, gendarmerie, and military. The police and the gendarmerie are responsible for maintaining internal domestic order, with the police operating primarily inside the cities and the gendarmerie mainly outside. The military forces are responsible for external security, but also have domestic security responsibilities, for example, protecting the president. The minister of defense oversees the military forces and gendarmerie and the minister of security oversees the police. In practice, police, gendarmerie, and military operations often overlapped and were poorly coordinated. Although improved compared to previous years, the government did not always have full control over some members or units of the security forces. In addition, the more professional and effective security forces tended to operate only in the urban areas. The security forces were not generally considered effective. Corruption was a significant problem. During the year there were frequent reports of arrested individuals whose families successfully bribed police to secure a release. Traffic police were known for extorting bribes from taxi drivers under threat of impoundment of their vehicles. Although the Human Rights Commission (HRC) was established for the public to report security force abuses (see section 4), impunity for members of the security forces was a problem. The police at times failed to prevent or to respond to societal violence (see section 1.a.).

Arrest and Detention.—The law requires that warrants be issued by a duly authorized official before arrests are made, that a person be apprehended openly, that a lawyer be present during initial questioning, and that detainees be brought before a judge within three days, and either be charged or released within four months; however, the government frequently violated these provisions. There is a system of bail, but more than 70 percent of the population had an income below the poverty level and could not afford to pay bail. Detainees generally were informed of the charges levied against them at the time of arrest but formal charges often took at least a week to be filed; however, there were numerous exceptions that allowed police to justify holding someone for up to 4 months (or longer) without charge. Justifications for some exceptions include administrative errors or delays in processing the detainees. Lawyers and family members usually were given prompt access to detainees, and indigent detainees were provided lawyers at government expense.

Arbitrary arrest was a problem.

There were some political detainees during the year. In February security forces arrested a small group of military officers and civilians, allegedly linked to the former administration, for the alleged theft of weapons from a gendarmerie camp. The detainees were still being held without formal charge at year's end. During their detention they were not permitted visits by their families or NGOs.

Unlike in the previous year, security forces did not arrest journalists.

Lengthy pretrial detention due to judicial backlogs was a problem. It was estimated that approximately 40 percent of the prison population were pretrial detainees. On average they would wait six months or more before going to trial. Detainees were occasionally held awaiting trial for periods longer than the sentence associated with the crime. Reportedly bribes were generally what determined the length of the detention.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, the judiciary continued to be overburdened, underfunded, and subject to political influence, bribery, and corruption. Lack of resources continued to be a severe problem.

The judicial system consists of traditional and local courts, courts of appeal, the High Court of Justice, the Supreme Court, and the Constitutional Court. In rural areas, traditional courts continued to handle domestic conflicts and many local disputes, particularly property and probate cases, and domestic conflicts that could not be resolved within the family. The Constitutional Court's function is to adjudicate the constitutionality of laws and judicial decisions; the High Court of Justice's function is to review judicial decisions or crimes involving the president and other high-ranking authorities in the conduct of their official duties. Members of the High Court of Justice were appointed in 2004, but due to lack of funds the court was still not functioning by year's end. The local courts dealt with criminal and civil complaints. The Supreme Court met regularly and primarily heard cases related to the legality of land seized by the government during the civil war. It also reviewed administrative and penal cases from lower courts.

Trial Procedures.—In general, defendants were tried in a public court of law presided over by a state-appointed magistrate. Juries are used. Defendants have the right to be present at their trial and to consult with an attorney in a timely manner. An attorney is provided at public expense if defendants face serious criminal charges. Defendants can confront or question witnesses against them and present witnesses and evidence on their behalf. The defense has access to prosecution evidence. Defendants are presumed innocent and have the right of appeal; however, the legal caseload far exceeded the capacity of the judiciary to ensure fair and timely trials. Some cases never reach the court system.

The military has a tribunal system for criminal actions of members of the military, gendarmerie or police. Civilians are not tried in this system.

Political Prisoners.—There were some political prisoners. During the year the ICRC reported that it monitored the condition of approximately ten political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, security forces at times illegally entered, searched, and looted private homes. In some areas of the Pool region, intimidation and harassment by uncontrolled and unidentified armed elements continued according to reports from international NGOs and civilians (see section 1.c.).

Citizens generally believed that the government monitored private mail and telephone communications.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, but it also criminalizes certain types of speech, such as incitement of ethnic hatred, violence, or civil war. The government at times limited these rights in practice and government journalists practiced self-censorship.

There was no state-owned newspaper, but there were several publications, which were closely allied with the government. There were 15 to 20 private metropolitan weekly newspapers that appeared weekly in Brazzaville, which were critical of the government. Newspapers occasionally continued to publish open letters written by opponents of the government who were in the country or lived abroad. The print media did not circulate widely beyond Brazzaville and the commercial center of Pointe Noire, although it reached approximately one-third of the population.

Most citizens obtained their news from the radio or television broadcast media and primarily government-controlled radio in rural areas. There were three privately owned radio stations, all pro-government. An individual with close government ties owned two of the four privately owned television stations, of which none were critical of the government. There were three government-owned radio stations, Radio Congo, Radio Brazzaville, and Radio FM; and one government-owned television station, Tele Congo. Several satellite television connections were available and permitted viewing of a range of news and entertainment programs.

Unlike in the previous year, security forces did not beat or detain journalists.

Most journalists were employed at various government ministries and departments as press attaches, or they worked for the newspaper *La Nouvelle République* or the Congolese Information Agency, both government-owned. The news coverage and the editorial positions of the government-owned media reflected government priorities and views. Government journalists were not independent and were expected to report positively on government activities. There was evidence that when government journalists deviated from this there were adverse consequences.

A number of Brazzaville-based journalists represented international media, such as the BBC, Associated Press, Reuters, Agence France Presse, Voice of America (VOA), Canal France International, and TV5. The government continued its policy of revoking journalists' accreditations if their reporting reflected adversely on the country's image. This policy affected journalists employed with both international and government-controlled media.

In September 2004 a journalist at Tele Congo interviewed an opposition leader, who was critical of the president's policies, on his talk show. Station management ordered the journalist to stay home to await a decision concerning his tenure at the station. He was allowed to return to work after a few months.

The press law provides for monetary penalties for defamation and incitement to violence.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for the freedom of assembly and association, and the government generally respected these rights in practice. Groups that wished to hold public assemblies were required to inform the Ministry of Territorial Administration and the appropriate local officials, which could withhold authorization for meetings that threatened public order. In October security forces disrupted a demonstration by some striking teachers who were not satisfied with the progress of negotiations between union leaders and the government.

Groups or associations—political, social, or economic—were generally required to register with the Ministry of Territorial Administration. Although registration could sometimes be subject to political influence, there was no evidence that this occurred during the year.

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

All organizations, including religious organizations, are required to register with and be approved by the government. There were no reports of discrimination against religious groups in this process, although it is time-consuming and lengthy. Penalties for failure to register involve fines and potential confiscation of goods, invalidation of contracts, and deportation for foreigners, but no criminal penalties are applicable.

Societal Abuses and Discrimination.—There were no reports of anti-Semitic acts. The Jewish community was small; there were small communities composed of perhaps several dozen Jews in the cities of Brazzaville and Pointe Noire.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, in practice, the government at times imposed some limitations. Unlike in previous years, checkpoints were rare and generally established in response to short-term security situations. For example, they occurred in May when some criminal elements threatened a police station in Brazzaville for a few hours, and again in October when armed militants sought to occupy the residence of their leader in the Bacongo neighborhood of Brazzaville even after the police and military ordered them to depart. Unlike in previous years, international NGOs reported considerably fewer incidents of harassment and intimidation by unidentified armed elements in certain areas of the Pool region (see section 1.c.).

Although the law prohibits forced exile, the government prevented the return of some citizens, including political opponents of the president. In a positive step, in October after the death of the wife of exiled former prime minister Kolelas, the government permitted him to return to bury her in the country. In late November former prime minister Kolelas was granted clemency for the alleged war crimes he was convicted of in absentia in 2000.

Internally Displaced Persons (IDPs).—NGOs working in the Pool Region reported by year's end that the vast majority of the estimated 150 thousand persons internally displaced by the civil war had either returned or had chosen to resettle in different regions of the country. The Ministry of Social Affairs reported that all IDPs who wished to return to their villages had done so by year's end.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution and granted refugee status or asylum.

The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

The government also provides temporary protection to individuals who may not qualify as refugees under the 1951 convention or its 1967 protocol; however, until November of this year, there had been no functioning process for dealing with the indeterminate status of these individuals. However, in October a group of former Mobutu-era soldiers from the Democratic Republic of Congo (DRC) attempted to return to the DRC via the river crossing between Brazzaville and Kinshasa. This was prevented by the closure of the ports on both sides of the river, which also cut-off the river commerce between the two countries. In response to this, the group staged a sit-in at the Brazzaville river port to pressure the governments to deal with their repatriation cases. In early November, after two weeks of the sit-in, 557 of these soldiers, along with their wives and children, were repatriated to DRC.

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; however, during the 2002 elections significant irregularities were observed, including leaving the entire Pool region disenfranchised.

Elections and Political Participation.—Independent observers determined the national elections in 2002 did “not contradict the will of the people”; however, they noted obvious flaws like insufficient numbers of ballots at certain polling stations, confusion over their locations, and the boycott by some opposition members who claimed the elections were biased. In addition, some international NGOs and foreign observers viewed the constitution and the elections as designed to protect the status quo. The 2002 elections remained incomplete at year’s end because of continued lack of security in some areas of the Pool region, which meant that eight of the Pool’s 12 parliamentary seats remained vacant. At year’s end it was unknown when or if new elections will occur.

Major political parties included the ruling Congolese Ruling Party, the Pan-African Union for Social Democracy, the Congolese Movement for Democracy and Integrated Development, the Union for Democracy and the Republic, the Rally for Democracy and Social Progress, and the Union for Progress. Some opposition party leaders remained in exile. There was no cohesive opposition, and many of the smaller political parties were more personality centered than representative of a significant constituency. Northern ethnic groups, such as the president’s Mbochi group and related clans dominated the political system.

There were 8 women in the 66-seat Senate and 12 women in the 136-seat National Assembly but only 128 seats were filled, as eight seats from areas of the Pool remained vacant. There were 5 women in the 35-member cabinet.

There were 14 members of minorities in the 66-seat senate and 36 members of minorities in the 136-seat National Assembly and 11 members of minorities in the 35-member cabinet. Pygmies were excluded from the political process, in part due to their isolation in remote forested areas, their culture, and their stigmatization by the majority Bantu population.

Government Corruption and Transparency.—There were press reports of government corruption, particularly regarding the misuse of the country’s revenues in the oil and forestry sectors. In November several Brazzaville newspapers printed articles critical of the government’s publishing of oil revenue data they said was contrived and disguising continued government corruption.

The law provides for public access to government information for citizens, noncitizens, and the foreign media; in practice; however, there were lengthy delays in information being released by the government.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were uncooperative and unresponsive to local human rights groups; however, they were generally cooperative and responsive to international organizations.

The ICRC maintained an office in Brazzaville. Access to government officials and to detainees continued to improve for international humanitarian officials during the year.

The HRC is charged with acting as a government watchdog and reacting to public concerns on human rights issues. Local observers claimed that it was completely ineffective and hasn't met or taken any significant action since its creation

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

Although the law prohibits discrimination on the basis of race, gender, language, or social status, the government did not effectively enforce these prohibitions. Societal discrimination and violence against women, reports of trafficking in persons, regional ethnic discrimination, and discrimination against indigenous peoples were problems.

Women.—Domestic violence against women, including rape and beatings, was widespread but rarely reported. There were no specific provisions under the law for spousal battery, apart from general statutes prohibiting assault. Domestic violence usually was handled within the extended family, and only the more extreme incidents were brought to the police. According to a local NGO, there were no official statistics on the number of cases of domestic violence against women. However, during the year they reported over 500 cases of women and children who were victims of sexual violence seeking medical assistance. They reported providing 100 HIV tests. This NGO organized public awareness workshops and offered training for 220 community chiefs, 124 police officers, 17 health workers, 9 magistrates, 31 journalists, and 144 others from the public and private sectors. NGOs, such as the local Human Rights Center, the Center to Combat Violence Against Women Group, the International Rescue Committee, and Doctors Without Borders continued to draw attention to the issue and provided counseling and assistance to victims.

Rape, including spousal rape, is illegal; however, the government did not effectively enforce the law. The penalties for rape, depending on the severity of the circumstances, could be as few as several months to three or more years' imprisonment. Rape goes largely unreported, thus its extent is unknown.

Female genital mutilation (FGM) was not practiced indigenously and is against the law; however, it may have occurred in some of the immigrant communities from West African countries where it was common.

Prostitution is illegal, but the government did not effectively enforce this prohibition. Prostitution was common, and police often accepted services in lieu of arresting the prostitute.

Sexual harassment is illegal; however, the government did not effectively enforce the law. Sexual harassment was very common but very rarely reported. Successful prosecutions were only achieved when a victim actively pursued a case with good legal representation or connections.

Marriage and family laws overtly discriminate against women. For example, adultery is illegal for women but not for men. Polygyny is legal; polyandry is not. While the law provides that a wife shall inherit 30 percent of her husband's estate, in practice, the wife often lost all inheritance upon the death of her spouse, particularly in traditional or common law marriage. The symbolic nature of the dowry is set in the law; however, this often was not respected, and men were forced to pay excessive bride prices to the woman's family. As a result, the right to divorce was circumscribed for some women because they lacked the financial means to reimburse the bride price to the husband and his family. This problem was more prevalent in rural areas than in urban centers. The Ministry of Social Affairs was in charge of protecting and promoting the legal rights of women.

The law prohibits discrimination based on gender and stipulates that women have the right to equal pay for equal work; however, women were underrepresented in the formal sector. Most women worked in the informal sector and thus had little or no access to employment benefits. Women in rural areas were especially disadvantaged in terms of education and wage employment and were confined largely to family farming, petty commerce, and childrearing responsibilities. Many local and international NGOs have developed micro-credit and micro-finance programs to address this problem, and government ministries such as social affairs and agriculture were active in addressing these problems. For example, women received assistance to set up dressmaking and beauty salons as well as gardening and manioc flour-making to provide an income for their families.

Children.—The government was committed to protecting the rights and welfare of children. Education was compulsory and tuition free until the age of 16, but families were required to pay for books, uniforms, school fees, etc. In the cities, about 95 percent of school-age children attended school, and in the rural areas, about 90 percent. High school graduation was the highest level achieved by most students.

Girls and boys attended primary school in equal numbers; however, the proportion of girls who continued on to the high school and university levels was significantly lower. Girls begin dropping out at approximately age 15 or 16. In addition, teenage girls were often pressured to exchange sex for better grades, which resulted in both the spread of HIV/AIDS and unwanted and unplanned pregnancies.

Child abuse was rare and was predominately found among the West African communities

FGM may have been performed on girls in some West African immigrant communities (see section 5, Women).

There were reports of isolated cases of child prostitution among street children. The prevalence of the problem still remained unclear. According to reports from international and local NGOs and others, the isolated cases were not linked to trafficking but used as an economic means by the street children to purchase food and other items. International organizations were assisting with programs to feed and shelter street children, although one program, operated by the ICRC and the UN International Children's Emergency Fund (UNICEF), ended in June.

There were a few unconfirmed reports that children were trafficked for labor (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

During the year, the number of street children decreased. UNICEF estimated in 2004 that most of the street children in Brazzaville were from the DRC. Street children from the DRC also were found in Pointe Noire. Street children were not known to suffer from targeted abuse by government authorities or vigilante groups, but they were vulnerable to sexual exploitation and often fell prey to criminal elements including drug smugglers. Many of the street children begged or sold cheap or stolen goods to support themselves; some also may have engaged in prostitution or petty theft to support themselves without third party involvement.

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons, and there were unconfirmed reports of trafficking of children by West African immigrants living in the country. Trafficking could be prosecuted under existing laws against slavery, prostitution, rape, illegal immigration, forced labor, and employer-employee relations. There was no evidence that the government has prosecuted any trafficker under these laws. The ministries of security, labor, and social affairs, as well as the gendarmerie, have responsibility for trafficking issues.

There were unconfirmed reports that the Republic of Congo was a country of destination. It was not a country of transit or origin. There also were unconfirmed reports that minor relatives of West African immigrants from Benin and Togo could be victims of trafficking. There was no evidence of trafficking in men or women. Outside of the unconfirmed reports of "minor-aged relatives" of West African immigrants, there were no other reports of trafficking in children. Children from West Africa worked as fishermen, shop workers, street sellers, or domestic servants. There were reports some were physically abused. There were reports of isolated cases of child prostitution, which according to international and local NGOs were not linked to trafficking or forced labor (see section 5, Children).

There was no evidence of involvement of government officials in trafficking, although bribery and corruption were problems.

The government does not provide any protection or assistance to trafficking victims since there were no confirmed cases of trafficking.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, although the government generally did not enforce it the law because the ministry responsible for implementation of this provision lacked the necessary funds. There were no laws mandating access for persons with disabilities.

National/Racial/Ethnic Minorities.—Although the law prohibits discrimination based on ethnicity, the government did not enforce this prohibition effectively.

Regional ethnic discrimination was prevalent among all ethnic groups, was evident in government and private sector hiring and buying patterns, and apparent in the effective north-south regional segregation of many urban neighborhoods. The relationship between ethnic, regional, and political cleavages was inexact; however, supporters of the government included persons mostly, but not solely, from northern ethnic groups, such as the president's Mbochi group and related clans.

Indigenous People.—The indigenous Pygmy ethnic group, who numbered in the tens of thousands and lived primarily in forest regions, did not enjoy equal treatment in the predominantly Bantu society. Pygmies were severely marginalized in employment, health, and education, in part due to their isolation in remote forested areas of the country and different cultural norms. Pygmies usually were considered socially inferior and had little political voice; however, in recent years, several

pygmy rights groups have developed programs and were actively focusing on these issues. Many Pygmies were not aware of the concept of voting and had minimal ability to influence government decisions affecting their interests.

Bantu ethnic groups have exploited Pygmies, possibly including children, as cheap labor; however, there was little information regarding the extent of the problems during the year.

Other Societal Abuses and Discrimination.—The social stigma associated with homosexuality is significant. People are not openly homosexual in the country. In contrast to this, persons with HIV/AIDS are fairly well-organized and fight for fair treatment, especially regarding employment. NGOs work on HIV/AIDS issues widely, including raising public awareness that those living with HIV/AIDS are still able to be contributing members of society.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of workers, except members of the security forces, to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. Almost 100 percent of workers in the public sector and approximately 50 percent of workers in the formal wage sector were union members. The law prohibits antiunion discrimination; however, there were a few reports that antiunion discrimination occurred.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law also provides for the right to collective bargaining, and workers freely exercised this right, although collective bargaining was not widespread due to the severe economic conditions.

The law provides for the right to strike, except for public sector unions, subject to conditions established by law. Workers exercised this right by conducting legal strikes. Unions were free to strike after filing a letter of intent with the Ministry of Labor, which began a process of nonbinding arbitration under the auspices of a regional labor inspector from the ministry. The letter of intent must include the strike date, at which time the strike legally may begin, even if arbitration is not complete. Employers have the right to fire workers if they do not give advance notice of a strike.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were unconfirmed reports of such practices (see section 5).

According to the ILO, at year's end there was no indication that the government repealed a 1960 law, which allows for persons to be requisitioned for work of public interest and if they refused they could be imprisoned.

d. Prohibition of Child Labor and Minimum Age for Employment.—Although there were laws and policies designed to generally protect children from exploitation in the workplace, child labor was a problem. Under the law, children under age 16 are not permitted to work, but this law generally was not enforced, particularly in rural areas and in the informal sector in cities. Children worked with their families on farms or in small businesses in the informal sector without government monitoring or supervision. The Ministry of Labor, which is responsible for enforcing child labor laws, concentrated its limited resources on the formal wage sector where its efforts generally were effective.

There were unconfirmed reports that children were trafficked for labor and child prostitution occurred (see section 5).

e. Acceptable Conditions of Work.—The national minimum wage, which was approximately \$100 (54 thousand CFA francs) per month in the formal sector, did not provide a decent standard of living for a worker and family. High urban prices and dependent extended families obliged many workers, including teachers and health workers, to seek secondary employment, mainly in the informal sector. At year's end the government owed 27 months of back salary to government workers.

Regulations provide for a standard workweek of seven hours per day, six days a week with a one-hour lunch break per day. There were no legal limits on the number of hours that could be worked per week. The law stipulates that overtime must be paid for all work in excess of 40 hours per week; however, there is no legal prohibition against excessive compulsory overtime, which was subject to agreement between employer and employee.

Although health and safety regulations require twice a year visits by inspectors from the Ministry of Labor, such visits occurred much less frequently. Unions generally were vigilant in calling attention to dangerous working conditions; however,

the observance of safety standards often was lax. Workers have no specific right to remove themselves from situations that endangered their health or safety without jeopardy to their continued employment.

COTE D'IVOIRE

Cote d'Ivoire is a democratic republic with an estimated population of 18 million. Laurent Gbagbo, candidate of the Ivoirian People's Front (FPI), became the country's third elected president in 2000. The election, which excluded two of the major parties, the Democratic Party of Cote d'Ivoire (PDCI) and the Rally for Republicans (RDR), was marred by significant violence and irregularities. The Supreme Court declared Gbagbo the victor with 53 percent of the vote. In September 2002 exiled military members and coconspirators simultaneously attacked government ministers and military/security facilities in Abidjan, Bouake, and Korhogo. The failed coup attempt evolved into a rebellion and split the country in two. Rebel "New Forces" (NF) retained control of the northern 60 percent of the country, while the government controlled the slightly smaller but more populous south.

In 2003 the political parties signed the French-brokered Linas-Marcoussis Accord (Marcoussis Accord), agreeing to a power-sharing government with rebel representatives. The government made little progress on the implementation of the Marcoussis Accord, and the NF suspended its participation in the Disarmament, Demobilization, and Reintegration (DDR) program. In February 2004 UN Resolution 1528 approved the UN Operation in Cote d'Ivoire (ONUCI) deployment of six thousand peacekeeping troops, joining the French Licorne force of four thousand. President Gbagbo and opposition political leaders signed subsequent peace accords, including Accra III (July 2004), the Pretoria Agreement (April 6, 2005), and Pretoria II (June 29, 2005), but the political process remained stalled. By the end of September, little work had been completed to prepare for the scheduled October 30 elections, and disarmament of the NF had not begun. On October 6, the African Union (AU) extended Gbagbo's term in office by up to one year and called for a new prime minister. On December 4, the AU designated Charles Konan Banny, a PDCI member and governor of the West African Central Bank, as the new prime minister. Civilian authorities in government- and NF-controlled zones generally did not maintain effective control of the security forces.

The government's human rights record remained poor. The continuing political instability and uncertainty leading up to the end of President Gbagbo's mandate increased tensions throughout the country. The following human rights problems were reported:

- restriction of citizens' right to change their government
- arbitrary and unlawful killings by security forces, progovernment militias, and student groups
- disappearances
- torture and other cruel, inhuman, or degrading treatment and punishment by security forces and progovernment militias and a student group
- deplorable prison and detention center conditions
- security force impunity
- arbitrary arrest and detention
- denial of fair public trial
- arbitrary interference with privacy, family, home, and correspondence
- police harassment and abuse of noncitizen Africans
- use of excessive force and other abuses in internal conflicts
- restrictions on freedoms of speech, press, peaceful assembly, association, and movement
- corruption
- discrimination and violence against women
- female genital mutilation (FGM)
- child abuse and exploitation
- trafficking in persons
- forced labor, including by children
- child labor, including hazardous labor

The NF's human rights record was extremely poor. Rebels in the north summarily executed persons, killed civilians, arbitrarily arrested and detained persons, and conducted arbitrary ad hoc justice. However, unlike in the previous year, the NF allowed citizens access to news aired in the south and improved freedom of movement. There were fewer reports of the enrollment of child soldiers, and many were released. Unlike in the previous year, no mass graves were found in rebel-held territory.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Security forces committed extrajudicial killings, some of which were believed to be politically and ethnically motivated (see section 1.g.). There continued to be reports that government-linked “death squads” and irregular forces (Liberian fighters, Liberian refugees, and civilians with ethnic ties to Liberia) committed extrajudicial killings. Security forces frequently resorted to lethal force to combat widespread crime. Rebel forces in the north also committed extrajudicial killings (see section 1.g.).

There continued to be numerous reports of progovernment militia groups operating in Abidjan during the year.

There were credible reports of more than 200 cases in which security force use of excessive force resulted in deaths. Such cases often occurred when security forces apprehended suspects or tried to extort money from taxi drivers and merchants. For example, on January 13, security forces shot and killed two taxi drivers in Adjame for refusing to stop at a roadblock. The National Armed Forces (FANCI) published an apology and announced that an investigation would be opened; however, no action had been taken by year's end.

On February 17, forestry officials began implementing a government directive to forcefully evict persons illegally occupying the National Marahoue Park in Bouafle. More than one hundred villagers were arrested for trespassing and detained in Bouafle prison. Some of the arrestees had pepper sprinkled in their eyes, were made to walk over hot coals, and were beaten and forced to pay approximately \$200 (100 thousand CFA) for their release. On February 22, 12 persons died from their injuries, and on February 27, another detainee died. By year's end 32 officials had been brought before judicial authorities.

On February 24 and 25, police officers from the Criminal Investigation Department (CID) shot and killed 18 persons in revenge for the February 23 killing of a police officer by 4 armed robbers, 2 of whom were FANCI soldiers. Eyewitnesses told journalists that the police officers were hooded and 14 of the persons were summarily executed.

On June 28, security forces arrested and beat Colonel Jules Yao Yao, retired General Laurent M'Bahia Kouadio, and Major Colonel Bakassa Traore after they attended a dinner hosted by the French Ambassador. On July 3, Traore died possibly as a result of his injuries. FANCI's chief of staff charged that Traore died as a result of a preexisting medical condition.

During the year there were numerous killings committed by members of the Security Operations Command Center (CECOS), an anticrime organization formed in July and staffed by police, gendarmerie, and FANCI officers. Between August 12 and October 4, CECOS killed 14 suspected criminals. There also were reports that the summary execution of thieves in Abidjan increased after the formation of CECOS. CECOS personnel also were accused of human rights violations, racketeering, extortion, and harassment. On September 21, the commanding officer in charge of CECOS announced that 75 CECOS officers had been sent back to their original posts due to misconduct.

On July 24, unidentified armed men allegedly attacked gendarmerie and police in Anyama, a suburb of Abidjan inhabited by northerners and citizens from Mali, Burkina Faso, and Guinea; nine persons were killed, including five gendarmes. The fighting subsequently spread to Agboville, Azaguie, Bongonanou, and Dimbokro. Security forces arrested 61 persons, primarily noncitizens. Seventeen were eventually released while 44 awaited trial. The government prevented neutral observers from entering the area of conflict for several days, but the ONUCI commander finally allowed to enter Anyamma and Agboville reported that he did not detect evidence of fighting. The media charged that the government had staged the incident to slander the rebels and incite hatred against foreigners, who often were accused of conspiring with the NF.

On March 29, the military tribunal sentenced Sebastien N'Dri to 10 years' imprisonment for the 2004 killing a French peacekeeper in Yamoussoukro.

On October 17, the French defense minister in Paris suspended General Henri Poncet, force commander of the Licorne from May 2004 until June, for allegedly covering up the death of Firmin Mahe, a detainee. On May 13, French Licorne forces allegedly attempted to apprehend Mahe near the village of Tah. Mahe reportedly shot and injured one of the soldiers, who subsequently suffocated Mahe and covered up the circumstances of his death.

There were no developments in the following 2004 killings by security forces: the January killing of a truck driver who protested the confiscation of his vehicle documents; the March killing of a driver near the market of Yopougon Wassakara; the August killing of a street vendor; and the October killing of a gardener by armed men in fatigues.

Unlike in the previous year, no journalists or demonstrators were killed by security forces; however, some sustained injuries from security force abuse (see sections 2.a. and 2.b.).

During the year the government released many of the bodies of more than 100 demonstrators who were killed in March 2004 as a result of security force use of lethal force. On the day of the mass funeral, the government buried the two police officers also killed during the demonstration, posthumously awarded a medal to each, and gave the officers' families \$14 thousand (8 million CFA). The parliamentary commission formed by the government to investigate the incident had not released its report at year's end.

There were no developments in the June 2004 lynching of communist party leader Abib Dodo by the Federation of Ivoirian Students (FESCI), the pro-Gbagbo student group created in the early 1990's.

There were no developments in other 2004 or 2003 security force killings.

In the western part of the country, there were reports of atrocities including killings, rapes, and looting, by progovernment militias and others (see section 1.g.).

There were numerous reports of conflict between the local population and Burkinabe farmers, whom the locals expelled from their farms (see section 5).

There were numerous incidents of ethnic violence that resulted in deaths (see section 5).

b. Disappearance.—There were reports of disappearances, although fewer than in previous years. Several members of the opposition, journalists, and ordinary citizens remained missing at year's end. There were unconfirmed reports that security forces abducted citizens and foreigners, forced them to work, and subsequently released them.

In October Amadou Dagnogo, the journalist who disappeared in 2004 in Bouake, an NF stronghold and the largest city in the north, reappeared in Man, a city in the western region. Dagnogo claimed that he escaped the NF and reached Man with the help of family and friends. The NF denied kidnapping the journalist and charged he was evading debtors.

There were no developments in the April 2004 disappearance of Guy Andre Kieffer, a Franco-Canadian freelance journalist. Michel Legre, the brother-in-law of the First Lady, was arrested and released in the case. On September 14, Kieffer's family accused government authorities of failing to actively investigate the case and appealed for information from citizens of the country.

During the year the government released the bodies of demonstrators killed during the March 2004 demonstration (see section 1.a.).

There were no developments in the 2003 disappearance of Nadine Victorier Coudard and her children; Coudard was politically active and had received numerous death threats.

Bionaho Mathias, a former member of the Union for Democracy and Peace in the country (UDPCI), and University of Cocody student activist Mahe Hippolyte reappeared during the year claiming that they had gone abroad to escape death squads. There were no developments in other 2003 disappearances.

Most of the persons reported missing in previous years remained missing at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, security forces beat and abused detainees and prisoners to punish them or to extract confessions. There were also reports of rape and torture. Police officers forced detainees to perform degrading tasks under threat of physical harm. Police detained persons overnight in police stations where they often beat detainees and forced them to pay bribes (see sections 1.d., 1.f., and 2.d.). Police also harassed and extorted bribes from persons of northern origin or with northern names (see section 1.f.).

According to an ONUCI human rights report, 22 detainees claimed they were tortured while being transferred from Duekoue Prison to Daloa Prison (see section 1.d.).

Violent actions and threats against political opposition figures continued during the year. There were numerous reports that opposition leaders received death threats over the telephone and from armed men dressed in fatigues, and that armed men harassed family members.

Unlike in previous years, police and security forces did not use lethal force to disperse demonstrations (see sections 1.a. and 2.b.).

Members of the security forces continued to beat and harass journalists (see section 2.a.).

Security forces also raped women and girls. On June 21, a lance corporal was charged with raping a secondary school girl.

On February 28, members of the security forces ransacked 20 mini-buses and injured 4 drivers for failing to pay a daily bribe.

During the year there were several reports that security forces conducted widespread neighborhood searches during which they beat and robbed residents (see section 1.f.).

Security forces remained on heightened alert for potential rebel infiltrators or active sympathizers, erected numerous roadblocks, and searched Abidjan neighborhoods, frequently during the nightly curfew. Individuals associated with opposition parties or rebellion leaders or believed to be sympathizers were subjected to increased harassment and abuse (see sections 1.d. and 1.g.).

Noncitizen Africans, mostly from neighboring countries, complained that they were subject to increased harassment by security forces, including repeated document checks, increased security force extortion and racketeering, violence, and frequent neighborhood searches (see sections 1.f. and 2.d.).

There were no developments in the following 2004 cases of security force abuse: the January robbing and torture of 17 drivers who had placed posters on their vehicles about police racketeering; the March beating of a mini bus driver who refused to give money to a police officer; the April beating by 4 police officers of another police officer who they mistook for being an RDR member; and the May beating of a UDPCI member by plainclothes security forces.

There were no developments in 2003 cases of security force abuse.

Youth groups who supported President Gbagbo attacked opposition newspapers and several ONUCI convoys during the year (see sections 2.a and 4). For example, on September 6, NF Minister of Territorial Administration Colonel Issa Diakite escaped a lynching by FESCI students and supporters in Cocody. Diakite, accompanied by his ONUCI security detail, was visiting a friend when the students attacked the home and destroyed vehicles before CECOS intervened.

There were no new developments in the investigations into the November 2004 attacks by progovernment youths on opposition newspaper headquarters and the homes of opposition party leaders.

On February 8, four men bearing Kalashnikov rifles carjacked Daniel Brechat, the French chairman of the Small and Medium Enterprises Chamber of Commerce. The men drove Brechat to Riviera, a suburb of Abidjan, where they burned and beat him while berating him for his French nationality. Brechat escaped and survived after being shot in the stomach. There were no developments in the investigation at year's end.

In the rebel-held part of the country, rebel military police operated with impunity in administering justice without legally constituted executive or judicial oversight (see section 1.g.). Rebels often harassed and abused local citizens with impunity, often on the basis of ethnic or political background. There continued to be reports that rebel forces beat persons who supported President Gbagbo and the ruling FPI. NF members raped women and girls in the north, and there continued to be reports that rebel soldiers arrested, tortured, or killed suspected government loyalists or allies of rival rebel Ibrahim Coulibaly in the zones under their control, regardless of their ethnic background (see section 1.g.).

Incidents of ethnic violence resulted in injuries, especially in the west and the southwest (see section 5).

Prison and Detention Center Conditions.—Conditions were poor and in some cases life threatening in the country's 33 prisons, largely because of inadequate budgets and overcrowding. For example, the country's main prison, MACA, was built for 1,500 but held approximately 3,400 detainees. Each prisoner had an average of 47 square inches of sleeping space. Conditions in MACA were notoriously bad, especially for the poor. Wealthy prisoners reportedly could "buy" extra cell space, food, and even staff to wash and iron their clothes. There were credible reports that prisoners frequently brutalized other prisoners for sleeping space and rations. However,

there were no reports that guards brutalized prisoners. Doctors Without Borders (MSF) supplemented the prison system's inadequate medical facilities and contributed to the prison budget. Several small national and international charities also helped some prisoners. There were press reports of a flourishing drug trade and prostitution in MACA. Families frequently supplemented the food ration, and at some prisons inmates grew vegetables to feed themselves. The International Committee of the Red Cross (ICRC) helped feed prisoners with no family.

Unlike in the previous year, there were no reports that prisoners died during prison riots; in 2004 at least 7 prisoners died and 30 were injured in riots to protest a lengthy water shortage. UN officials investigating the riot had not provided a death toll by year's end.

There also were no reports that prisoners were killed while trying to escape; in 2004 security forces shot and killed 19 prisoners and injured 66 others who were attempting to escape.

Male minors were held separately from adult men, but the physical barriers at the main MACA prison were inadequate to enforce complete separation. Prison conditions for women and children remained particularly difficult. Female prisoners were segregated in a separate building under female guard. There were continued reports that female prisoners engaged in sexual relations with wardens to get food and privileges. There were no health facilities for women. Pregnant prisoners went to hospitals to give birth and then returned to prison with their babies. The penitentiary accepted no responsibility for the care or feeding of the infants, although the women received help from local NGOs.

During the year the International Catholic Office for Children (BICE) helped conduct physiological tests to determine the ages of 323 children. The BICE helped locate the families of 597 jailed children to facilitate their return upon release. The BICE also built a separate facility to hold children at the Divo Prison.

Pretrial detainees were held with convicted prisoners. A 2004 study by Notre Voie reported that of 3,400 prisoners held in MACA, 30 percent were pretrial detainees and were held with convicted prisoners (see section 1.e.).

The government permitted access to prisons by local and international NGOs including the ICRC, MSF, World Doctors, and International Prisons' Friendship.

The rebels maintained detention centers, and during the year the ICRC and the ONUCI human rights division local team were granted full access.

There were credible reports that rebels killed prisoners or that prisoners died in jail, although less frequently due to improved conditions (see section 1.g.).

On March 11, foreign citizen Brian Sands was arrested and detained in Bouake Prison before being moved to Korhogo Prison. The NF alleged Sands was found with global positioning equipment and telephone numbers of government officials and international mercenary companies. In April Sands died in Korhogo Prison. The UN human rights officer announced that the April 8 autopsy revealed Sands had died from asphyxiation. There was no investigation at year's end.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, both occurred frequently.

Role of the Police and Security Apparatus.—Security forces under the ministries of defense and territorial administration include the army, navy, air force, republican guard, presidential security force, and the Gendarmerie, a branch of the armed forces with responsibility for general law enforcement. The police forces are under the jurisdiction of the Ministry of Interior. There were major divisions within the military based on ethnic and political loyalties. Police forces include paramilitary rapid intervention units such as the Anti-Riot Brigade and the Republican Security Company, and the plain-clothes investigating unit, Directorate for Territorial Security (DST). In July the government formed CECOS to combat rising crime in Abidjan (see section 1.a.). A central security staff collected and distributed information regarding crime and coordinated the activities of the security forces. Security forces frequently resorted to excessive force (see sections 1.a., 1.c., and 2.b.).

Poor training and supervision of security forces, corruption, the public's fear of pressing charges, and investigations conducted by security forces who themselves were abusers contributed to widespread impunity and lawlessness in the country. Racketeering at roadblocks was a serious problem, and security forces were often seen forcing people stopped at roadblocks to do push-ups while being beaten or subjected to other abuses. Police received sexual favors from prostitutes in exchange for not being arrested. There also were credible reports that police kidnapped private citizens and either killed them or released them, sometimes requiring a bribe be paid for their release. Security forces were often accused of being the cause of rising crime in Abidjan, and there were credible reports that security forces rented their uniforms and weapons to persons wanting to engage in criminal activity. Security

forces on occasion also failed to prevent violence (see section 2.b.). Security forces faced no sanctions for confiscating or destroying noncitizens' identification papers.

The government in general did not investigate or punish effectively those who committed abuses, nor did it prosecute persons responsible in previous years for unlawful killings and disappearances. During the year the Military Prosecutor established a telephone help line to report racketeering incidents.

There were credible reports of a few disciplinary or legal actions against police officers for misconduct, mistreating suspects and arrestees, and killing persons during the year (see section 1.a.). For example, on January 17, three FANCI soldiers were arrested and transferred to MACA after being apprehended during an armed robbery attempt.

During the year the government launched a television campaign urging citizens not to bribe security forces at checkpoints. During a January seminar in Grand Bassam, FANCI Chief of Staff Philippe Mangou told transport owners to refrain from paying bribes to security forces. However, citizens who did not pay bribes often faced the confiscation of their official documents or harassment, intimidation, and physical abuse. On March 2, drivers from private transportation companies across the city of Abidjan launched a three-day strike to protest the harassment and physical violence inflicted on them by security forces (see section 2.b.).

There were at least four arrests of military personnel for racketeering. No further information was available.

Arrest and Detention.—Under the law, officials must have warrants to conduct searches, although police sometimes used a general search warrant without a name or address. A bail system existed solely at the discretion of the judge trying the case. Detainees were generally allowed access to lawyers; however, in cases of accusations of complicity with the rebels or other matters of national security, detainees were frequently denied access to their lawyers and family members. For more serious crimes, those who could not afford to pay for lawyers were given lawyers by the state, but less serious offenders were often without representation. A public prosecutor may order the detention of a suspect for 48 hours without bringing charges, and in special cases, the law permits an additional 48-hour period. According to members of the jurists' union, police often held persons for more than the 48-hour legal limit without bringing charges, and magistrates often were unable to verify that detainees who were not charged were released. Defendants do not have the right to a judicial determination of the legality of their detention. A magistrate could order pretrial detention for up to four months but also had to provide the minister of justice with a written justification on a monthly basis for continued detention.

The DST was charged with collecting and analyzing information relating to national security. The DST has the authority to hold persons for up to four days without charges; however, human rights groups stated there were numerous cases of detentions exceeding the statutory limit.

There were many instances during the year in which gendarmes or other security forces arbitrarily arrested persons. According to ONUCI, since January, dozens of villagers were detained, subjected to racketeering, and tortured by forest rangers for trespassing. Rangers often demanded up to \$200 for their release (see section 1.a.).

Security forces continued to arbitrarily arrest merchants and transporters, often in conjunction with harassment and requests for bribes.

Police also detained journalists during the year (see section 2.a.).

During the year security forces continued to arrest and usually release RDR party members and officials and persons of northern origins thought to be close to the rebellion (see section 2.b.). For example, on April 4, the Republican Guard rounded up hundreds of persons in the Dioulabougou district of Yamoussoukro, an area largely populated by northerners. After the Guard checked their papers, the detainees were released.

Security forces arrested 22 persons, who subsequently alleged they had been tortured during a prison transfer (see section 1.c.).

Local and international human rights organizations continued to report that security forces frequently made arrests without warrants and frequently held persons beyond the statutory limits without bringing charges. There were credible reports that the police and gendarmes detained persons in various military camps in Abidjan. Few of these detainees entered the civil justice system. For example, security forces arrested and detained more than 100 RDR members in the wake of the July violence in Anyama and Agboville (see section 1.a.).

Approximately 30 percent of the country's prison population was in pretrial detention, according to the Ministry of Justice. Many inmates continued to suffer long detention periods in MACA and other prisons while awaiting trial. Despite the legal

limit of 10 months of pretrial detention in civil cases and 22 months in criminal cases, some pretrial detainees were held in detention for years.

Amnesty International (AI) and other human rights organizations reported that in rebel-controlled territory, the NF also arbitrarily arrested, mistreated, ransomed, and detained many persons thought to be loyal to President Gbagbo or Sergeant Ibrahim Coulibaly. For example, on March 30, the NF arrested and detained Kouakou Brou, vice president of the General Council of Sakassou, and two of his associates on allegations that they had helped armed elements infiltrate the zone under their control. The detainees were not released until they paid two thousand dollars (one million CFA).

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, in practice the judiciary was subject to executive branch, military, and other outside influences. Although the judiciary was independent in ordinary criminal cases, it followed the lead of the executive in national security or politically sensitive cases. There were also credible reports that judges were subject to corruption. The judiciary was slow and inefficient.

The formal judicial system is headed by a Supreme Court and includes the court of appeals, lower courts, and a constitutional council. The law grants the president the power to replace the head of the Supreme Court after a new parliament is convened. In August 2003 President Gbagbo appointed the seven members of the Constitutional Council, without consultation with the government. President Gbagbo tasked the council with, among other things, the determination of candidate eligibility in presidential and legislative elections, the announcement of final election results, the conduct of a referendum, and the constitutionality of legislation. President Gbagbo named three advisors to the Constitutional Council for three-year terms, three other advisors to six-year terms, and a president.

Trial Procedures.—The law provides for the right to public trial, although key evidence sometimes was given secretly. The government did not always respect the presumption of innocence. Those convicted have the right of appeal, and although higher courts rarely overturned verdicts, it has occurred. Defendants accused of felonies or capital crimes have the right to legal counsel. The judicial system provides for court-appointed attorneys; however, no free legal assistance was available, except infrequently when members of the bar provided pro bono advice to defendants for limited periods.

In rural areas, traditional institutions often administered justice at the village level, handling domestic disputes and minor land questions in accordance with customary law. Dispute resolution was by extended debate, with no known instance of resort to physical punishment. The formal court system increasingly was superseding these traditional mechanisms. The law specifically provides for a grand mediator to bridge traditional and modern methods of dispute resolution. The president appoints the grand mediator.

Military courts did not try civilians. Although there were no appellate courts within the military court system, persons convicted by a military tribunal may petition the Supreme Court to set aside the tribunal's verdict and order a retrial.

Political Prisoners.—There were no reports of political prisoners.

There was little available information on the judicial system used by the NF in the northern and western regions; however, there continued to be credible reports of summary executions for various crimes in the NF-controlled zone.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law provides for these rights; however, the events of 2002 triggered a widespread suspension of privacy rights. Officials must have warrants to conduct searches, must have the prosecutor's agreement to retain any evidence seized in the search, and are required to have witnesses to the search, which may take place at any time; however, in practice police sometimes used a general search warrant without a name or address. Police frequently entered the homes of northern citizens and non-citizen Africans (or apprehended them at large), took them to local police stations, and extorted small amounts of money for alleged minor offenses.

There were credible reports that security forces conducted warrantless searches of opposition party officials' residences, allegedly in search of weapons. During the year security forces continued to conduct neighborhood searches where they would enter several homes at the same time, usually at night looking for arms. On May 10, three members of the security forces entered and searched the home of opposition journalist Honore Sepe without a warrant (see section 2.a.). On July 28, eight gendarmes conducted a warrantless search of the home of RDR member Adama Bictogo.

No action was taken against security forces who in 2004 looted and searched houses in Anyama, beat and threatened residents, confiscated and destroyed identity documents, and stole money from residents.

No action was taken against security forces who forcibly entered residences in previous years.

Security forces monitored private telephone conversations, but the extent of the practice was unknown. The government admitted that it listened to fixed line and cellular telephone calls. Authorities monitored letters and parcels at the post office for potential criminal activity, and they were believed to monitor private correspondence, although there was no evidence of this. Members of the government reportedly continued to use students as informants.

Rebels continued to confiscate the property and vehicles of civil servants and those believed to be loyal to President Gbagbo or of persons who had abandoned their houses following the rebellion. There were credible reports that the NF threatened those who attempted to reclaim their property. However, unlike in the previous year, there were no reports that NF military looted and occupied missionary houses in Bouna, Tiebessou, and Bouake.

Rebels in the northern towns of Bouake and Katiola continued to monitor mail, looking for potential government loyalist infiltrators.

Unlike in previous years, there were no confirmed reports that rebels forcibly conscripted citizens into their ranks.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Unlike in previous years, there were no reports that progovernment death squads operated during the year; however, security forces committed extrajudicial killings with impunity, and progovernment militia groups were responsible for harassment, killings, and disappearances. These crimes often went unreported or underreported due to fear of reprisals.

The collaboration of government forces and irregular forces created a climate of fear and impunity. Unlike in 2004 there were reported executions of suspected rebels and rebel sympathizers by security forces during the year. Abidjan police and security forces in search of rebel sympathizers, infiltrators, and arms caches continued to use lethal force in neighborhood sweeps against citizens with northern origins and African immigrants (see sections 1.a and 1.f.). Progovernment militias and rebels continued to use child soldiers (see section 5).

There continued to be reports that the government recruited Liberian mercenaries in the west. There also were credible reports describing serious abuses committed by armed forces working in complicity or in coordination with youth groups in the central and western parts of the country. As in the previous year, local villagers from ethnic groups close to the government allegedly provided the names of foreigners, RDR members, northerners, and other suspected rebel supporters to security forces.

Self-defense committees manned checkpoints with the assent of security forces, and there were reports that they beat and killed Burkinabe and other northerners accused of being rebels.

There were no developments in the January 2004 machete killings of five adults and three children by unidentified armed men in the village of Kahin; the victims included workers from Burkina Faso and Guinea.

No action was taken against prominent loyalist leaders in Abidjan such as Young Patriots leader Charles Ble Goude, Women Patriots leader Genevieve Bro Grebe, and others who in 2004 helped orchestrate the attacks on unarmed UN personnel and vehicles, opposition newspapers, opposition party headquarters, the homes of opposition party members, and the homes, businesses, and schools of French citizens and other expatriates. The violence, which was triggered in part by the retaliation of Licorne peacekeeping troops for the bombing of the French military base in Bouake, resulted in numerous civilian deaths and injuries.

There were no developments in the following 2003 security force killings: the January killing of Mamadou Ganame; the February killing of well-known television sitcom actor and RDR activist Yerefe Camara; the February killing of Islamic preacher Mory Fanny Crisse; and the April killing of former student leader Maurovlaye Kener.

No investigations were conducted into the numerous abuses committed by Liberian fighters in 2003, including mass killings, rapes, and torture.

Rebel groups were also responsible for indiscriminate killings. ONUCI's human rights division described numerous extrajudicial killings by rebels. The rebels in the west targeted, beat, and sometimes killed gendarmes, government officials, and suspected FPI sympathizers and committed sexual violence against girls and women, including rape and sexual slavery. The NF and their allies, the *dozos* (traditional hunters), were responsible for killings and disappearances. There were fewer reports

of such incidents than in the previous year, although rebel arrests of suspected loyalist infiltrators increased during the year.

Unlike in the previous year, no mass graves were discovered in rebel-held areas. No investigations were conducted into the three mass graves in rebel-held territory discovered in 2004 by UN personnel.

The rebel soldier accused of killing a French peacekeeper in 2004 remained in detention awaiting trial.

No investigations were conducted into numerous abuses committed by rebels in 2004 and 2003, including summary executions, killings, rape, beatings, and looting.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and the press, but the government restricted these rights in practice. Journalists continued to practice self-censorship.

On July 22, President Gbagbo filed a defamation complaint against PDCI Minister Kobenan Adjoumani, who in June accused the president of masterminding the 2002 rebellion. The trial had not begun by year's end.

The Young Patriots, a pro-Gbagbo militia group, continued to destroy opposition newspapers and threaten vendors in several regions. The media continued to play a critical role in inflaming tensions. Newspapers backed by political parties continued to publish hate messages and created a climate of hostility. The Ivorian Observatory on Press Freedom and Ethics (OLPED) and the National Press Commission (CNP), which enforced regulations regarding creation, ownership, and freedom of the press, regularly published press releases urging journalists to be more moderate.

The only remaining government-owned daily newspaper, *Fraternite Matin*, which had the greatest circulation of any daily, rarely criticized government policy. There were a number of private newspapers that frequently criticized government policy, the president, and the ruling party. Newspapers often ceased publication and were supplanted by others due to strong competition, a limited audience, and financial constraints. Many newspapers were politicized, sometimes resorting to fabricated stories to defame political opponents. The law requires the "right of response" in the same newspaper, thus newspapers often printed articles in opposition to an earlier article.

Members of the security forces continued to harass and beat journalists. Outspoken members of the press continued to receive death threats and suffer physical intimidation from groups aligned with the ruling FPI party.

On July 26, following the violence in Anyama and Agboville (see section 1.a.), unidentified persons attacked the headquarters of Edipresse, the national newspaper distribution company, in the Adjame district of Abidjan. The attackers destroyed several copies of the opposition newspapers *Le Patriote*, *Le Front*, and *Dernieres Heures*, and demanded that Edipresse stop delivering newspapers that supported the rebellion. The same day, citing security concerns and threats received by their drivers, Edipresse announced the suspension of the distribution of these papers in several western towns. By year's end the papers had resumed circulation.

On July 27, in retaliation, pro-opposition youth destroyed copies of pro-Gbagbo *Notre Voie* and *Les Echos du Matin* in the Abidjan districts of Port Bouet and Marcory.

Because of low literacy rates, radio was the most important medium of mass communication. Newspapers and television were relatively expensive. The government-owned broadcast media company RTI owned two major radio stations; only the primary government radio station broadcast nationwide. Neither station criticized the government. However, political coverage was somewhat more balanced than in the previous year. ONUCI Radio FM, which was established in 2004 in accordance with a UN resolution, continued to broadcast balanced political coverage mixed with music and programs. By year's end listeners could listen to ONUCI FM in nine towns. There were approximately 50 community radio stations authorized under government regulations. They had limited broadcast range and were allowed no foreign language programming, no advertising, and only public announcements limited to the local area. Some of the stations did not broadcast for lack of resources. The private radio stations, except for Radio Nostalgie, had complete control over their editorial content. The government monitored Radio Nostalgie closely because the major shareholders of the company were close to RDR president Alassane Ouattara. National broadcast regulations forbade the transmission of any political commentary.

Four major international radio stations operated for most of the year: Radio France Internationale (RFI), the British Broadcasting Company, Voice of America, and Africa No. 1.

On July 15, the National Audiovisual Communication Council (CNCA) suspended RFI from broadcasting on the FM band and alleged that the station had been “un-professional” in its coverage of Colonel Bakassa Traore’s death (see section 1.a.). CNCA, which also accused RFI of broadcasting a secret UN report incriminating local authorities in the Duekoue killings (see section 5), fined the station \$17 thousand (9 million CFA) and ordered RFI to apologize. Despite the ban, RFI could be heard at year’s end on short wave radio in the government- and NF-controlled zones.

On July 27, following the violence in Anyama and Agboville (see section 1.a), Young Patriot leader Charles Ble Goude briefly took over RTI to broadcast a message of hate and intimidation targeted at the opposition. On the same day, republican guard members ordered Yacouba Kebe, the director general of RTI, to stop broadcasting opposition images and statements. In response Kebe suspended coverage of all political activities for several weeks and issued a statement condemning Ble Goude’s actions.

The government owned and operated two television stations (RTI 1 and RTI 2) that broadcast domestically produced programs. Neither station criticized the government.

There were two satellite television broadcasters: One French (Canal Horizon/TV5) and one South African (DS TV).

Members of the security forces continued to harass and beat journalists with impunity. Outspoken members of the press continued to receive death threats and suffer physical intimidation from groups aligned with the ruling FPI party.

On May 10, three men entered the home of Honore Sepe, a journalist for the opposition newspaper *Le Front*. Sepe was briefly detained and interrogated regarding his association with the NF.

On August 4, men in uniforms attacked and beat Brahim Golle, a journalist for the pro-opposition newspaper *Dernieres Nouvelles*. The attack was allegedly in retaliation for an article Golle wrote about the death of a republican guard member. Golle was treated at a hospital and later released.

The Young Patriots continued to destroy independent and opposition newspapers in several regions of the country and to threaten newspaper vendors.

Several journalists continued to receive threats during the year from unknown persons. For example, after a February interview with the Ivoirian ambassador to the UN and an NF representative, RTI journalist Habiba Dembele received death threats for providing the NF perspective.

There also were several reports during the year that foreign journalists were subjected to government harassment and intimidation. The French-based newspaper *Liberation* published an article asserting that Ivorian intelligence agents often apprehended special correspondents coming from Paris and questioned them regarding their contacts before allowing them to leave the airport.

Since the killing of journalist Jean Helene in 2003 and the disappearance of Guy-Andre Kieffer (see section 1.b.) in 2004, many western journalists relocated to other parts of West Africa. In 2004 France 2 channel transferred to Dakar, and RFI closed its office in Abidjan.

On January 22, a military court found police Master Sergeant Dago Sery Theodore guilty of the 2003 murder of French journalist Christian Baldensperger (aka Jean Helene), an RFI reporter and French citizen. Theodore was sentenced to 17 years’ imprisonment. Sery appealed the judgment, but on February 24, the Supreme Court upheld the military tribunal’s sentence.

No action was taken against progovernment youth groups who attacked, threatened, arrested, or harassed journalists in 2004 and 2003.

No action was taken against French Licorne forces responsible for the November 2004 killing of Antoine Masse, an English teacher and correspondent.

Since the 2002 rebellion, the government continued to reduce press freedoms in the name of patriotism and national unity. The government and the ruling FPI exercised considerable influence over the official media’s program content and news coverage, using them to promote government policies and criticize the opposition. NF leader and Minister of Communications Soro frequently complained that the government did not fairly accord television airtime to opposition party members, including himself.

The 2002 rebellion triggered significant self-censorship and a deterioration of press freedom. The law authorizes the government to initiate criminal libel prosecutions against officials. In addition, the state may criminalize a civil libel suit at its discretion or at the request of the plaintiff. Criminal libel was punishable by from three months to two years in prison.

While there was self-censorship in the press, independent daily newspapers and opposition party dailies frequently examined and called into question the government's policies and decisions.

In rebel-held territory, rebels broadcast their own programming from Bouake, which included radio shows that were heard in towns and villages around Bouake and, according to some reports, in the political capital, Yamoussoukro. In the western part of the country, rebels also broadcast on a local radio station around Man. The NF continued to allow broadcast of government television or radio programs in their zones. The NF also allowed distribution of all progovernment newspapers and most independent newspapers in their territory. However, at checkpoints in Yamoussoukro, FANCI soldiers frequently prevented opposition newspapers from entering the NF zone.

In the rebel-held zones, rebel forces also beat and harassed journalists; however, unlike in previous years, there were no reports that rebel forces killed journalists.

On April 14, in Bouake, the NF arrested four journalists from progovernment newspapers and their driver. The NF then transported the journalists to a cemetery, where they used their cameras and video recorders to record a mock execution of the journalists before releasing them.

No action was taken against rebel forces who beat, harassed, and killed journalists in 2004 and 2003.

The government limited academic freedom through its proprietary control of most educational facilities, even at the post-secondary level. A presidential decree required authorization for all meetings on campuses.

Many prominent scholars active in opposition politics retained their positions at state educational facilities; however, some teachers and professors suggested that they had been transferred, or feared that they could be transferred, to less desirable positions because of their political activities. According to student union statements, security forces continued to use students as informants to monitor political activities at the University of Abidjan.

FESCI, the pro-Gbagbo student group created in the early 1990's, used increasingly violent tactics to maintain its hold on student government, disrupt the work of officials appointed by opposition ministers, and intimidate other students. FESCI members continued to target AGEECI, a rival student group founded in June 2004 as an alternative form of student governance. In May FESCI elections were postponed when police found students armed with machetes and ready to fight for their secretary general candidate.

On June 15, FESCI students kidnapped Mohamed Timite, a member of AGEECI, from the Cocody university campus. The same day, FESCI kidnapped three graduate students who were posting signs inviting students to attend an AGEECI meeting. The students were taken to FESCI headquarters in Cocody, where they claimed they were tortured. FESCI alleged that the students were distributing prorebel leaflets. Under pressure from the European Union and ONUCI, local police negotiated the release of the students the following day. No action was taken against the FESCI students by year's end.

On June 23, FESCI members kidnapped and allegedly raped Nathalie Soro, after she distributed leaflets inviting students to a memorial service for a student believed to have been killed by FESCI members in 2004. Soro was released the same day. No action was taken against the FESCI students. Soro had not filed a complaint by year's end.

Also on June 24, two AGEECI students were kidnapped from a bus station in Adjame, where they were distributing invitations to a conference in July. The students were taken to Cocody, where they claimed to have been beaten and tortured before being released.

The weekend of June 25, Armand Kouakou Kouassi, former FESCI secretary general of Bouake I University, was found shot and killed in the Yopougon area of Abidjan. Many attributed Kouassi's death to an internal dispute among FESCI leaders.

On June 30, the minister of human rights published a statement condemning the violence in the country's universities.

No action was taken against FESCI members responsible for 2004 and 2003 attacks on school administrators, teachers, and students, and for vandalizing school property.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law allows for freedom of assembly; however, the government sometimes restricted this right in practice. Groups that wished to hold demonstrations or rallies in stadiums or other enclosed spaces were required by law to submit a written notice of their intent to the Ministry of Security or the Ministry

of Interior three days before the proposed event. No law expressly authorizes the government to ban public meetings or events for which advance notice has been given in the required manner, but the government prohibited specific events deemed prejudicial to the public order. Even if authorization for an event was granted, the government could later revoke it. President Gbagbo continued to ban demonstrations in the streets. The ban remained in place at year's end.

RDR members occasionally had difficulties associating freely, and there were reports that security forces harassed and detained RDR members who tried to meet.

On October 30, police used tear gas after an opposition demonstration to deter several hundred protestors from marching to the presidential palace. A few protestors were slightly injured. Police seldom forcibly dispersed progovernment demonstrations.

On July 27, progovernment supporters and FESCI students armed with clubs and iron rods attacked participants in a press conference organized by opposition youth leaders at the PDCI headquarters. Two persons were seriously injured, and a dozen were wounded. FECSCI members also beat the third deputy mayor of Adjame, an RDR supporter, and Stephane Koudou, an opposition journalist. FECSCI also detained several persons at the nearby FESCI-run university dormitory. Security forces on the scene observed the abuses but took no action.

No action was taken against government forces responsible for using lethal force to suppress a March 2004 opposition march and for subsequently seeking out and killing opposition supporters who participated in the march.

No action was taken against Young Patriots demonstrators, who in June 2004 attacked French citizens and ONUCI peacekeepers and destroyed vehicles; approximately 40 French citizens were injured.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right. The government allowed the formation of political parties, trade unions, professional associations, and student and religious groups, all of which were numerous.

The law prohibits the formation of political parties along ethnic or religious lines; however, in practice ethnicity and religion were key factors in some parties' membership (see sections 2.c. and 5).

Loyalists of President Gbagbo's FPI party had youth patriot groups with thousands of members in Abidjan neighborhoods and in towns and cities throughout southern, central, and western regions. The common factors with these groups were that they were linked to President Gbagbo and the FPI, were anti-French, anti-"foreigner" and anti-Marcoussis Accord. Gendarme and army officers led some groups in physical training. Belligerent patriot groups rallied in neighborhoods, called for "armed resistance," and hassled and intimidated residents and merchants. There were persistent reports that some patriot groups had arms or had ready access to arms. The presidency sponsored some of these groups and tolerated others, but it did not have complete control over them.

There continued to be reports that progovernment militias harassed and assaulted farmers, many of whom were migrants from other West African countries.

On March 8, FANCI Chief of Staff Mangou and the DDR commission disbanded the Patriotic Grouping for Peace (GPP), an organization that continued to operate although banned by the government in 2003 for its violent activities. On February 3, two persons were killed and several were wounded during clashes between GPP members and cadets from the nearby police academy.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right. However, after 2002 the government targeted persons perceived to be perpetrators or supporters of the rebellion, who often were Muslim. Strong efforts by religious and civil society groups have helped prevent the crisis from becoming a religious conflict. The targeting of Muslims suspected of rebel ties diminished somewhat during the year.

There was no state religion; however, for historical as well as ethnic reasons, the government informally favored Christianity, in particular the Roman Catholic Church. Catholic Church leaders had a stronger voice in government affairs than their Islamic counterparts, which led to feelings of disenfranchisement among some Muslims.

The law requires religious groups desiring to operate in the country to register; however, registration was granted routinely.

Although nontraditional religious groups, like all public secular associations, were required to register with the government, no penalties were imposed on groups that failed to register.

Societal Abuses and Discrimination.—Members of the country's largely Christianized or Islamic urban elites, which effectively controlled the state, generally were

disinclined to accord to traditional indigenous religions the social status accorded to Christianity and Islam.

Some Muslims believed that their religious or ethnic affiliation made them targets of discrimination by the government with regard to both employment and the renewal of national identity cards. As northern Muslims shared names, style of dress, and customs with several of the country's predominantly Muslim neighboring countries, they sometimes were accused wrongly of attempting to obtain nationality cards illegally to vote or otherwise take advantage of citizenship (see section 5). This created a hardship for a disproportionate number of Muslim citizens.

During the year the government took positive steps to promote interfaith understanding. Government officials, including the president and his religious advisers, appeared at major religious celebrations and events organized by a wide variety of faiths and groups. The government often invited leaders of various religious communities, including the Mediation Committee for National Reconciliation, to attend official ceremonies and to sit on deliberative and advisory committees.

There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law does not provide specifically for these rights, and the government restricted freedom of movement during the year. The government generally did not restrict internal travel; however, in August authorities continued to prohibit citizens from entering and leaving Yamoussoukro and Abidjan city limits between 11:00 p.m. to 6:00 a.m. Security forces and water, forestry, and customs officials frequently erected and operated roadblocks on major roads, where they demanded that motorists or passengers produce identity and vehicle papers and regularly extorted small amounts of money or goods for contrived or minor infractions. Extortion was particularly high for those intending to travel north from government-controlled areas to NF territory.

During the year security forces or local civilian "self defense committees" erected numerous roadblocks and harassed and extorted travelers, commercial traffic and truckers, foreigners, refugees, and others, including ONUCI; however, there were fewer such reports by year's end (see sections 1.a. and 1.d.).

Police harassed opposition members at the airport and sometimes prevented foreigners from traveling between the north and the south. For example, on October 26, police briefly detained rebel leaders Louis Dacoury-Tabley and Amadou Kone at the airport.

On July 15 and on August 29, the president signed new drafts of laws on nationality and naturalization in an effort to address the concerns of the opposition parties. However, the legislation

Persons living under NF authority regularly faced harassment and extortion when trying to travel between towns and to the government-controlled south. Local military authorities regularly sold passes required of travelers. Security and defense forces also victimized northerners when they tried to cross into the zone under government control. Due to the closure of banks in the north at the onset of the crisis, northerners were forced to cross into the south and back to conduct all banking business, including collecting remittances (upon which many northerners depend). Government workers in the north must also travel into the south to collect their salaries. The cost of either paying the way through the various barricades or hiring a money runner to do so was substantial.

The law specifically prohibits forced exile, and no persons were exiled forcibly during the year. However, due to the numerous death threats, several members of the RDR, including the president of the party, former prime minister Alassane Ouattara, as well as members of other opposition parties, remained in self-imposed exile.

Internally Displaced Persons (IDPs).—During the year there were large numbers of IDPs in the country as a result of the 2002 crisis. Ethnic conflict during the year resulted in additional IDPs (see section 5). Progovernment and rebel forces did not generally target civilians, but ethnic conflict and fighting forced many people to flee the zones of conflict, and others simply felt uncomfortable in the side of the divided country that they found themselves in initially. Road blocks and toll collection points made it difficult for civilians to move in both sides of the country. The government's November 2004 bombing of Bouake resulted in a sharp increase in IDPs, and a UN Population Fund survey estimated that there were over 900 thousand IDPs in Abidjan alone. These IDPs were invisible but placed heavy burdens on host communities, especially given the prolonged nature of the crisis. Government assistance, especially in the north where civil servants and infrastructure were not in

place, did not meet the needs of these IDPs. International and local NGOs were working to fill the gap. In October the government appointed an IDP point of contact within the Ministry of Foreign Affairs to address some of these problems.

The Center for Assistance to Temporarily Displaced Persons (CATD), located in Nicla village near Guiglo, hosted 6,741 persons, 95 percent of whom were Burkinabe who in 2002 fled the fighting near Bolequin, west of Guiglo. Due to the ethnic tensions between the local Guere population and persons of Burkinabe descent (many were born in the country but never sought or received citizenship), these IDPs have been unable to return to their villages or fields. The IDPs claimed that their plantations were being occupied by indigenous Guere persons, who themselves had been displaced from their land. The international community, with the approval of the government, provided assistance to these IDPs, but little or no effort was made to solve the underlying ethnic tensions, based mainly on land tenure issues, that prevented them from going home. It was generally acknowledged that the conditions in the camp were poor compared with the six thousand Liberian refugees in the nearby Nicla refugee camp ("Peacetown"), since the refugee camp was maintained according to stricter UN High Commissioner for Refugees (UNHCR) standards for housing, water, sanitation, health services, education, etc.

On April 26, Guere youths in villages surrounding Guiglo attempted to attack the CATD (see section 5).

After ethnic clashes in May and June, an estimated 7,500 IDPs, mostly ethnic Guerres, moved into the Catholic mission in the western town of Duekoue, and an additional 2,500 sought refuge elsewhere (see section 5). By September many had returned but 2,700 still remained. At year's end, the government tried to evict the IDPs; however, the eviction was postponed after an international outcry. At year's end only 200 IDPs remained.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protections to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status and asylum. A law that went into effect in May 2004 provides refugees with legal status, including the right to work. The government also cooperated with the UNHCR and other humanitarian organizations in assisting refugees and maintained an office charged with assisting refugees and other stateless persons.

The government also provided temporary protection for individuals who may not qualify as refugees under the 1951 Convention/1967 protocol.

Various West African governments complained that their citizens were harassed in the country. The UN and other international organizations documented such abuses against foreigners, which included arbitrary arrest, beating, and theft (see sections 1.a, 1.c., 1.d., and 1.f.). These complaints diminished somewhat during the year, and there were no large-scale departures by foreigners due to harassment.

Individual security officers often did not honor identity documents issued to refugees either by the government or by the UNHCR. There were frequent and credible reports that security forces destroyed refugees' identity documents, arbitrarily detained, verbally harassed, and occasionally beat refugees at checkpoints. The identity card law included provision for the issuance of identity cards to non-Liberian individuals over 14 years of age whose refugee status has been granted by the National Eligibility Commission. Liberians who arrived in the country before the 2003 peace agreement in Liberia benefited from group determination and received temporary refugee cards. Liberians who arrived in the country after the peace agreement did not receive temporary cards. Under certain circumstances, some asylum seekers who were not granted refugee status by the government were provided refugee certificates by UNHCR.

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

The law provides for the right of citizens to change their government peacefully through democratic means. However, significant violence and irregularities marred the last presidential and legislative elections held in 2000.

Elections and Political Participation.—The 2000 presidential elections followed several postponements and a controversial supreme court decision disqualifying 14 of the 19 candidates, including all of the PDCI and RDR candidates. RDR leader Ouattara was excluded from running in the presidential and legislative elections following the Supreme Court's ruling that he had not demonstrated conclusively that he was of Ivoirian parentage. The court also disqualified former president Bedie,

who also was president of the PDCI party, because he did not submit the required medical certificate.

As a result of the supreme court rulings, most international election observers declined to monitor the election. The nationwide participation rate was 33 percent, and some polling places, especially in the north, closed early because of the lack of voters. Preliminary results showed that Gbagbo was leading by a significant margin. However, on October 24, 2000, Daniel Cheick Bamba, an interior ministry and national elections commission (CNE) official, announced on national radio and television that the CNE had been dissolved and declared General Guei the victor with 56 percent of the vote. Thousands of Gbagbo supporters protested, demanding a full vote count. Mass demonstrations resulted in numerous deaths and injuries, and on October 25, 2000, national radio and television reported that General Guei had stepped down.

The 2000 National Assembly election was marred by violence, irregularities, and a very low participation rate. Largely because of the RDR boycott of the elections to protest the invalidation of Ouattara's candidacy, the participation rate in the legislative election was only 33 percent. In addition, the election could not take place in 26 electoral districts in the north because RDR activists disrupted polling places, burned ballots, and threatened the security of election officials.

Following the legislative by-elections in 2001, 223 of the 225 seats of the National Assembly were filled: the FPI won 96 seats, the PDCI 94 seats, the Ivorian Worker's Party 4 seats, very small parties 2 seats, independent candidates 22 seats, and the RDR (in spite of its boycott of all of the legislative elections) 5 seats. The two seats from Kong, where Ouattara planned to run, remained unfilled as the RDR, the only party running in that electoral district, boycotted the elections.

Citizens' ability to elect subnational governments was limited.

The country remained divided at year's end. President Gbagbo and opposition political leaders signed subsequent peace accords, but the political process remained stalled. By the end of September, NF disarmament had not begun, and little work had been completed to prepare for the scheduled October 30 elections. By year's end Prime Minister Diarra had been unable to accomplish any of his major duties, which included reestablishment of the territorial integrity of the country, NF disarmament, and preparation of a schedule for free and fair elections. On October 6, the AU extended Gbagbo's term in office until October 31, 2006, created an International Working Group to monitor the peace process, and required that a new prime minister be designated. On December 6, the AU designated Charles Konan Banny as the new prime minister. By year's end he had created a new cabinet composed of 29 ministers and 2 junior ministers.

The youth wings of political parties were allowed to organize and were active. The youth wing of the governing FPI party (JFPI) was less of a political force than in previous years. JFPI activity was ongoing; however, youth patriot groups conducted most activities during the year (see section 2.b.). Many of the members of the JFPI were likely members of some of these patriot groups. During the year militia groups such as the Young Patriots drew large crowds at demonstrations in Abidjan and elsewhere (see section 2.b.). The youth wings of the PDCI and RDR have kept a relatively low profile since security forces violently repressed a G7 March 2004 demonstration, resulting in the deaths of an estimated 120 opposition members.

Government Corruption and Transparency.—Government corruption and lack of transparency remained a serious problem during the year. It was common for judges open to financial influence to distort the merits of a case. Corruption had the greatest impact on judicial proceedings, contract awards, customs, and tax issues.

Women held 19 of 225 seats in the National Assembly. The first vice president of the National Assembly was a woman. Women held 4 of the 31 ministerial positions in the cabinet. Of the 41 supreme court justices, 4 were women. Henriette Dagri Diabate served as Secretary General of the RDR, the party's second ranking position.

In the National Assembly, 44 out of 223 members of parliament were Muslim.

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

A number of domestic and international human rights groups, including LIDHO and MIDH, generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. The government occasionally met with some of these groups.

During the year ONUCI, LIDHO, MIDH, APDH, and other human rights groups gathered evidence and testimony, published in independent local daily newspapers and often criticized state security forces.

During the year members of MIDH received death threats, and progovernment militia groups targeted and harassed the ONUCI.

For example, a January e-mail to MIDH headquarters threatened to kill MIDH members in retaliation for the NGO's alleged preoccupation with conditions in rebel-controlled areas.

No investigations were conducted into 2004 and 2003 incidents of threats and harassment of MIDH members.

During the year progovernment militia, unhindered by government security forces, blocked ONUCI members from conducting their activities in government-controlled areas. For example, following July rebel attacks in Anyama and Agboville (see section 1.a.), ONUCI and other international NGOs attempted to send personnel to investigate. However, progovernment militias blocked ONUCI from entering the area and destroyed two ONUCI vehicles.

On August 11, the Young Patriots in Gagnoa attacked an ONUCI convoy attempting to visit prisoners in Gagnoa prison. The convoy was again attacked on its return, forcing ONUCI members to take refuge in Gagnoa's prefecture. Members of the Young Patriots accused ONUCI of attempting to liberate rebel prisoners.

On August 12, UN Secretary-General Koffi Annan expressed "regret that the movements of the UN peacekeeping mission in the country were being impeded" and called on citizens to refrain from any action that may undermine the peace process.

There were no reports that the government suppressed international human rights groups or denied them visas; however, on occasion the government restricted their access to certain areas deemed sensitive and often denigrated their work.

During the year the government regularly permitted access to the World Food Program (WFP), the ICRC, and other international humanitarian organizations. Eleven UN agencies, including the International Labor Organization (ILO) and the World Health Organization (WHO), were resident and active throughout the year.

Local newspapers covered reports by several international human rights organizations that were critical of both the government's and the rebels' human rights records.

In October the Chairman of the UN's Cote d'Ivoire Sanctions Committee visited the country and met with all parties involved in the political crisis. At year's end a report was forthcoming.

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

The law prohibits discrimination based on race, ethnicity, national origin, sex, or religion; however, the government did not effectively enforce the law.

Women.—The law does not prohibit domestic violence, and it was a problem. Female victims of domestic violence suffered severe social stigma and as a result often did not discuss domestic violence. The courts and police viewed domestic violence as a family problem unless serious bodily harm was inflicted or the victim lodged a complaint, in which case they could initiate criminal proceedings. However, a victim's own parents often urged withdrawal of a complaint because of the shame that affected the entire family.

The law prohibits rape and provides for prison terms of 5 to 10 years, and the government enforced this law. Claims were most frequently brought against child rapists. A life sentence can be imposed in cases of gang rape if the rapist is a relative or holds a position of authority over the victim, or if the victim is under 15 years of age. The law does not specifically penalize spousal rape. Rape was a problem, although its extent was unknown because the government did not collect statistics on rape or other physical abuse of women. Women's advocacy groups continued to protest the indifference of authorities to female victims of violence; however, women who reported rape or domestic violence to the police were often ignored. The Ministry of Human Rights, the Association of Women Lawyers, MIDH, and the Ivoirian Movement of Human Rights continued to seek justice on behalf of rape victims but had not made much progress by year's end.

During the year the Ministry of Women, Family, and Children equipped counseling centers set up in 2004 with computers, printers, and other equipment for record keeping. Between January and July the ministry also assisted approximately 200 victims of domestic violence, and ministry officials visited 56 victims in their homes. In 2004 the ministry opened counseling centers for battered women and children in Yopougon, Treichville, and Abobo districts.

The National Committee in Charge of Fighting against Violence against Women and Children, under the Ministry of Women, Family and Children's Affairs, had a hot line for abused women, helped provide shelters for victims of abuse, and counseled abusive husbands. The Committee also monitored abusive situations through frequent visits. Young girls who feared becoming victims of abuse, FGM, or forced marriage could appeal to the committee, which arranged for shelter in facilities run

by the government or NGOs. The Committee often stopped abuse by threatening legal action against offending parents or husbands.

FGM was a serious problem. The law specifically forbids FGM and provides penalties for practitioners of up to 5 years' imprisonment and fines of approximately \$690 to \$3,800 (360 thousand to 2 million CFA francs). Double penalties apply to medical practitioners. There was a decreasing incidence of FGM; however, an estimated 60 percent of women had undergone the procedure. FGM was practiced most frequently among rural populations in the north and west and to a lesser extent in the center and south. FGM usually was performed on young girls or at puberty as a rite of passage, with techniques and hygiene that did not meet modern medical standards. During the year more than 30 practitioners in Abobo District turned in their instruments and promised to stop performing FGM as a result of a campaign by a local NGO, the National Organization for Child, Woman, and Family. However, unlike in the previous year, no practitioners were arrested. In August a group of 68 girls from the north participated in an excision ceremony and celebration in the Abobo district of Abidjan. The government took no action to arrest the practitioners.

Prostitution is not illegal as long as it occurs between consenting adults in private, and there appeared to be an increase in the practice. Soliciting and pandering are illegal, and the police sometimes enforced the law. Women from nearby countries sometimes were trafficked into the country, including for prostitution (see section 5, Trafficking).

The law prohibits sexual harassment. The penalties for sexual harassment are one to three years imprisonment and a fine ranging between \$670 and \$1,870 (360 thousand and 1 million CFA).

The law prohibits discrimination on the basis of gender; however, women occupied a subordinate role in society. Government policy encouraged full participation by women in social and economic life; however, there was considerable resistance among employers to hiring women, who were considered less dependable because of their potential for pregnancy. Some women also encountered difficulty in obtaining loans, as they could not meet the lending criteria established by banks, such as a title to a house and production of a profitable cash crop. Women in the formal sector usually were paid at the same rate as men (see section 6.e.); however, because the tax code did not recognize women as heads of households, female workers frequently paid income tax at a higher rate than their male counterparts.

Women's advocacy organizations continued to sponsor campaigns against forced marriage, marriage of minors, patterns of inheritance that excluded women, and other practices considered harmful to women and girls. Women's organizations also campaigned against the legal texts and procedures that discriminated against women. The Coalition of Women Leaders continued its efforts to promote greater participation of women in decision-making.

Children.—The Ministries of Public Health and of Employment, Public Service, and Social Security sought to safeguard the welfare of children, and the government also encouraged the formation of NGOs such as the Abidjan Legal Center for the Defense of Children.

The government strongly encouraged children to attend school in the government-controlled south; however, primary education was not compulsory. Primary education was tuition free but usually ended at age 13. In principle students did not have to pay for books or fees; however, in practice some still did so or rented books from stalls on the street. Students also paid for some school supplies, including photocopying paper. In at least one school, students had to bring their own bench to sit on. Many children between the ages of 12 and 14 left school due to poverty. Research in 2002 showed that 67 percent of children 6 to 17 years old attended school, including 73 percent of boys and 61 percent of girls. The WFP has worked with the government to establish a countrywide system of school canteens that provided lunches for \$.04 (25 CFA francs).

Students who failed the secondary school entrance exams did not qualify for free secondary education, and many families could not afford to pay for schooling. Parental preference for educating boys rather than girls persisted, particularly in rural areas. The minister of national education stated that almost one-third of the female primary and secondary school dropout rate of 66 percent was attributable to pregnancies.

Teachers sometimes gave good grades and money to students in exchange for sexual favors. The penalty for statutory rape or attempted rape of either a girl or a boy aged 15 years or younger was a 1- to 3-year prison sentence and a fine of \$190 to \$1,900 (100 thousand to 1 million CFA francs).

The Ministry of Health operated a nationwide network of clinics for children, infants, and prenatal care staffed with nurses and doctors who served the local residents, whether citizens or noncitizens, free or at low cost. The Health Ministry also

conducted a nationwide vaccination program for measles, yellow fever, meningitis, and other diseases and publicized “well baby” contests. Despite the division of the country, Rotary Clubs sponsored a polio vaccination campaign throughout the country.

A 2004 NGO survey of 500 schoolchildren in Abidjan and its suburbs found that 27 percent of children had been victims of sexual abuse; 74 percent of the victims were girls and 26 percent boys. Approximately 33 percent had been raped, 15 percent had been the victims of attempted rape; 42 percent had been fondled, and 11 percent were victims of sexual harassment. When the sexual abuse occurred in the family, 54 percent of the assailants were male cousins, 11 percent were female cousins, 5 percent were guardians, and 3 percent were the brothers and sisters.

FGM was commonly performed on girls (see section 5, Women).

The law prohibits, and provides criminal penalties for, forced or early marriage; however it occurred.

There were reports of trafficking in children (see section 5, Trafficking).

Progovernment militias continued to recruit children, both on a voluntary and a forced basis. On February 28, the UN arrested and handed over to FANCI members of a progovernment militia that attacked the rebel outpost of Lougouale. Many of the attackers were children.

Child labor remained a problem (see sections 5, Trafficking, and 6.d.).

There were an estimated 215 thousand street children in the country, including 50 thousand in Abidjan. Some children were employed as domestics and were subject to sexual abuse, harassment, and other mistreatment by their employers (see section 6.d.). Because of the political-military crisis, many families, including displaced families, relied on their children to work as street vendors and bring money home. A forum of 15 NGOs worked with approximately 8 thousand street children in training centers, similar to halfway houses. The NGOs paid the children a small subsistence sum while teaching them vocational and budgeting skills. Many street children, however, were reluctant to stay in training centers where they earned no money and were subject to strict discipline.

Citing security concerns, the government since 2004 has refused to pay teachers or to administer exams in the rebel-controlled north. Thousands of the approximately 93 thousand primary and secondary school students affected by the government's decision dropped out of school, discouraged by the government's refusal to recognize their efforts. In October the NF announced that it would administer the exams but had not done so by year's end.

UNICEF has reported that in the NF-controlled territory, most hospitals had been closed for three years, there were very few doctors and nurses, and virtually no routine vaccinations. In November the government, with the assistance of UNDP and the Rotary Club, held a nationwide vaccination campaign.

Progovernment militias and rebel forces continued to use child soldiers. During the year 4 militia groups in the Guiglo area submitted to UNICEF a list of 150 children for DDR. On February 28, UN forces captured approximately 70 rebel attackers, including many child soldiers, during fighting in Logouale, a town in rebel-held territory in the western region. On June 13, in Man, UNICEF and a local NGO demobilized 57 children, including 3 girls, who had received military training and were ready for battle. The children, who were aged 10 to 16 and included 3 girls, were placed in an interim care facility where they received psychological assistance and job training. During the year in Bouake, UNICEF also demobilized 137 children, including 83 girls.

Trafficking in Persons.—The law does not prohibit trafficking in persons, and although the government continued its antitrafficking efforts, trafficking in persons remained a problem. With the continuing crisis, the government, UN agencies, and international humanitarian agencies concentrated on child soldiers and children displaced because of the war, and it was difficult to distinguish trafficked children. Traffickers can be prosecuted under laws prohibiting kidnapping, forced labor, and mistreatment; however, there was minimal law enforcement in government-held territories, and the government did not prosecute traffickers during the year. The National Committee for the Fight Against Trafficking and Child Exploitation coordinated the government's antitrafficking efforts. It included representatives from several ministries, including the Ministries of Family, Women, and Children, Foreign Affairs, Economy and Finance, and Health.

The government cooperated with international investigations of trafficking, and on July 27, the government signed a multilateral anti-trafficking-in-children and repatriation accord with nine neighboring countries. The ministries of employment and of family, women, and children's affairs continued working with Malian authorities to prevent cross-border child trafficking and to repatriate Malian children from the country.

The country was a source and destination country for trafficking in women and children from Mali, Burkina Faso, Ghana, Togo, and Benin for the purpose of forced commercial agriculture and domestic servitude. The full extent and nature of the problem was unknown despite efforts to document and trafficking of persons in the country. There was no reliable estimate of the number of children intercepted or repatriated during the year. Trafficking in persons decreased during the year due to increased checkpoints and fewer economic opportunities in the country. However, officials at the country's border with Ghana near Aboisso turned back more busloads of children traveling without adults than in the previous year.

The country's cities and farms provided ample opportunities for traffickers, especially of children and women. The informal labor sectors were not regulated under existing labor laws, so domestics, most nonindustrial farm laborers, and those who worked in the country's wide network of street shops and restaurants remained outside government protection. Internal trafficking of girls ages 9 to 15 to work as household domestics in Abidjan, and elsewhere in the more prosperous south, remained a problem. Traffickers of local children were often relatives or friends of the victim's parents. Traffickers sometimes promised parents that the children would learn a trade, but they often ended up on the streets as vendors or working as domestic servants. Due to the economic crisis, many parents allowed their children to be exploited.

Women principally were trafficked to the country from Nigeria, Ghana, and Liberia. A local NGO estimated that 58 percent of the female prostitutes in Abidjan were not citizens. Organized trafficking rings promised Nigerian women and girls that they would have jobs in restaurants and beauty salons in Abidjan; however, many ended up in brothels.

Women and children were trafficked from the country to African, European, and Middle Eastern countries, sometimes for prostitution.

The regular trafficking of children into the country from neighboring countries to work in the informal sector in exchange for finder's fees generally was accepted. Children were trafficked into the country from Mali, Burkina Faso, Ghana, Togo, Benin, and Mauritania for indentured or domestic servitude, farm labor, and sexual exploitation.

The controversy over child labor in the cocoa sector in the country continued, and the government, the ILO, the Institute of Tropical Agriculture, and the Chocolate Manufacturers Association continued to document the problem and search for ways to solve the problem. The latest survey, released in 2002, revealed that most children in the cocoa sector worked on the family's farm (approximately 70 percent) or beside their parents. Of the 625 thousand working children, 96.7 percent had a kinship relation to the farmer. Others, most frequently the children of extended family members or persons well known to them, indicated their or their family's agreement to leave their respective countries to work on farms in the country to earn money or in search of a better life.

The research suggested that perhaps 5 thousand to 10 thousand children were trafficked to or within the country to work full- or part-time in the cocoa sector. It also showed an estimated 5,100 children employed as full-time permanent workers, approximately 3 thousand of whom were from Burkina Faso. The survey found another 12 thousand children working part time on cocoa farms who had no family ties with the farmer. The research showed that approximately 109 thousand child laborers worked in hazardous conditions on cocoa farms in the country in what the study described as the worst forms of child labor. The studies estimated that 59 percent were from Burkina Faso, 24 percent were citizens, and the others were from Mali or other countries to the north. During the year compared with previous years, there were significantly fewer reports of children from neighboring countries being imported for fieldwork on plantations under abusive conditions.

The government worked with NGOs and international organizations or combat trafficking in persons. The National Committee for the Fight Against Child Trafficking, which included representatives from numerous government ministries; representatives from several national and international organizations and NGOs, such as UNICEF, ILO, Save the Children, REFAMP-CI (network of women ministers and parliamentarians); and the BICE continued its work during the year. The government and the ILO continued to implement the West African Project Against Abusive Child Labor in Commercial Agriculture (WACAP) to increase farmers' awareness, improve schooling for children, and provide better social services to families. Between June and October WACAP educated over 21 thousand people. In Abgville, in the heart of the cocoa zone, Winrock International continued its project Alternatives to Child Labor through Improved Education.

Persons with Disabilities.—The law requires the government to educate and train persons with physical, mental, visual, auditory, and cerebral motor disabilities, to

hire them or help them find jobs, to design houses and public facilities for wheelchair access, and to adapt machines, tools, and work spaces for access and use by persons with disabilities; however, wheelchair accessible facilities for persons with disabilities were not common, and there were few training and job assistance programs for persons with disabilities. The law also prohibits acts of violence against persons with disabilities and the abandonment of such persons.

On November 7, more than 200 members of the National Federation of the Handicapped of Cote d'Ivoire (FAH-CI) organized a sit-in in front of the Ministry of Solidarity, Social Security, and the Handicapped to protest the government's failure to recruit persons with disabilities during the last 3 years. The head of FAH-CI was subsequently fired, and the dispute was ongoing at year's end. In 1996 the government announced a program to recruit persons with disabilities for government service, but no such persons had been since 2003.

Adults with disabilities were not specific targets of abuse, but they encountered serious difficulties in employment and education. The government supported special schools, associations, and artisans' cooperatives for persons with disabilities, but many persons with physical disabilities begged on urban streets and in commercial zones. Persons with mental disabilities often lived in the streets.

Traditional practices, beliefs, and superstitions varied, but infanticide in cases of serious birth defects was less common than in previous years. Many parents no longer believed that children with disabilities were sorcerers or the signs of a curse.

The Ministry of Solidarity, Social Security, and the Handicapped and the Federation of the Handicapped were responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—The country's population was ethnically diverse. Citizens born in the country derived from five major families of ethnic groups. The Akan family comprised more than 42 percent; the largest Akan ethnic group, and the largest ethnic group in the country, was the Baoule. Approximately 18 percent of citizens belonged to the northern Mande family, of which the Malinke were the largest group. Approximately 11 percent of citizens belonged to the Krou family, of which the Bete were the largest group. The Voltaic family accounted for 18 percent of the population, and the Senoufo were the largest Voltaic group. Approximately 10 percent belonged to the southern Mande family, of which the Yacouba were the largest group. Major ethnic groups generally had their own primary languages, and their nonurban populations tended to be concentrated regionally.

All ethnic groups sometimes practiced societal discrimination on the basis of ethnicity. Urban neighborhoods had identifiable ethnic characteristics, and major political parties tended to have identifiable ethnic and regional bases, although inter-ethnic marriage increasingly was common in urban areas.

At least 26 percent of the population was foreign, and of that group, 95 percent were other Africans. There were more than 5 million West African immigrants living in the country. Most of the Africans were from neighboring countries, with half from Burkina Faso. Birth in the country did not automatically confer citizenship. Outdated or inadequate land ownership laws resulted in conflicts with an ethnic and antforeigner aspect.

In December 2004 the National Assembly made changes to the nationality code and adopted a Special Law on Naturalization, legislation that was envisioned by the Marcoussis Accord to resolve the dispute over which persons born of foreign parents before 1972 should be entitled to citizenship and to simplify procedures to obtain citizenship for this group and for foreigners married to citizens. The legislation that was eventually passed resolved the citizenship question for those born before 1960 but not for those born between 1960 and 1972. On July 15 and on August 29, the president signed new drafts of laws on nationality and naturalization in an effort to address the concerns of the opposition parties; however, the legislation remained a contentious issue.

Some ethnic groups included many noncitizens, while other ethnic groups included few noncitizens. There were societal and political tensions between these two sets of ethnic groups. This cleavage corresponded to some extent to regional differences. Members of northern ethnic groups that were found in neighboring countries as well as in the country often were required to document their citizenship, whereas members of formerly or presently politically powerful ethnic groups of the west, south, and center reportedly were not required to do so. Police routinely abused and harassed noncitizen Africans residing in the country (see section 1.f.). Official harassment reflected the frequently encountered belief that foreigners were responsible for high crime rates, as well as a concern for identity card fraud. Harassment of northerners increased markedly after the 2002 rebellion.

On November 29, local government officials, accompanied by police officers, oversaw the bulldozing of the homes of more than 10 thousand people living in the

Akwaba and Moussakro shantytowns of Abidjan. Most of the people were of Burkinabe origin. The government cited security concerns as the reason for the demolition.

Following the violence in 2003 after the signing of the Marcoussis Accord, many private French citizens left the country. Several thousand French citizens were evacuated in the wake of the November 2004 violence targeting French persons. The French and the Burkinabe continued to keep a low profile as harassment against them by security forces at checkpoints continued during the year (see section 2.d.).

Since the outbreak of the armed rebellion in 2002, clashes have regularly occurred between the native Guere populations and the Burkinabe and have led to the death of at least 10 persons on both sides. The native populations accused the Burkinabe of being assailants and the rebels' accomplices. However, according to French military sources, the repeated attacks against the non-natives (citizens and foreigners alike) were only aimed at stealing the latter's crops or money.

Ethnic tensions led to fighting and deaths, especially in the western areas of the country. During the year We and Yacouba ethnic groups in the west continued fighting, and hundreds reportedly were killed. In the west and in Duekoue in particular, there were violent clashes between the native We population and members of the foreign community, particularly Burkinabe farmers.

On April 25 and 26, ethnic disturbances erupted in the town of Guiglo, in the western region, following the apparent killing of a man from the local Guere tribe. FANCI soldiers prevented a mob attack on Guiglo's IDP center, which housed mainly ethnic Burkinabe. The crowd, composed of mostly indigenous youths, then rampaged through the town, destroying homes, shops, and vehicles, and killing one non-indigenous resident; seven persons were injured. No action was taken against the perpetrators at year's end.

Between April 29 and May 2, violent clashes in and around Duekoue, in the western region, between ethnic Guere and Dioula left approximately 30 dead. Clashes in June resulted in 9 more deaths, numerous injuries, and the displacement of more than 10 thousand persons, who took shelter in a Catholic mission. On July 7, the FANCI chief of staff installed a military governor and military prefects in the Moyen-Cavally region to reinforce security.

Incitement to Acts of Discrimination.—Progovernment newspapers and militias, often led by Charles Ble Goude of the Young Patriots, continued to promote hatred against northerners, loosely described as "assailants", the French, and foreigners, especially those from Mali and Burkina Faso.

Section 6. Worker Rights

a. The Right of Association.—The law allows all citizens, except members of the police and military services, to form or join unions of their choice without excessive requirements, and workers exercised these rights in practice. Registration of a new union required three months and was granted routinely.

Only a small percentage of the workforce was organized, and most laborers worked in the informal sector that included small farms, small roadside and street side shops, and urban workshops. However, large industrial farms and some trades were organized. There was an agricultural workers union.

The law does not prohibit antiunion discrimination by employer or others against union members and organizers.

b. The Right to Organize and Bargain Collectively.—The law allows unions in the formal sector (approximately 1.5 million workers or 15 percent of the workforce) to conduct their activities without interference, and the government protected this right in practice. The law provides for collective bargaining and grants all citizens, except members of the police and military services, the right to bargain collectively. Collective bargaining agreements were in effect in many major business enterprises and sectors of the civil service. The law provides for the right to strike, and workers generally exercised this right in practice. However, the law requires a protracted series of negotiations and a six-day notification period before a strike may take place, making legal strikes difficult to organize. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children. The government made efforts to enforce the law. However, there were reports such practices occurred (see section 5).

Compulsory labor by children occurred (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—There were laws against forced labor and the exploitation of children in the work place; however, child labor remained a problem. In most instances, the legal minimum working age is 14; however, the Ministry of Employment and Civil Service enforced this provision effectively only in the civil service and in large multinational companies.

Labor law limits the hours of young workers, defined as those under 18. However, children often worked on family farms, and some children routinely acted as vendors, shoe shiners, errand boys, domestic helpers, street restaurant vendors, and car watchers and washers in the informal sector in cities. Some girls began work as domestic workers as early as nine years of age, often within their extended family. There were reliable reports of children laboring in “sweatshop” conditions in small workshops. Children also worked in family operated artisanal gold and diamond mines.

According to a 2003 study, 28 percent of all children worked, with 20 percent working full time. About 23 percent of the children ages 10 to 14 and 55 percent of the children ages 5 to 17 carried out an “economic activity.” According to a 2002 study, approximately 109 thousand child laborers worked in hazardous conditions on cocoa farms in what has been described as the worst forms of child labor (see section 5); some of these children were forced or indentured workers but 70 percent worked on family farms or with their parents.

The government continued its 2004 pilot program to certify that cocoa was produced free of child labor and that children in cocoa producing areas attended school. The Cocoa Task Force also continued its work in conjunction with the Chocolate Manufacturers Association to develop a list of benchmarks and deadlines to be achieved by 2008.

The Association of Domestic Worker Placement in Cote d’Ivoire worked to prevent the exploitation of children in domestic work. Other NGOs campaigned against child trafficking, child labor, and sexual abuse of children.

The National Management Committee for the International Program for the Elimination of Child Labor of the International Bureau of Labor was created in 2004 and spearheaded national efforts to fight child labor.

e. Acceptable Conditions of Work.—Minimum wages varied according to occupation, with the lowest set at approximately \$73 (36,607 CFA francs) per month for the industrial sector; this wage did not provide a decent standard of living for a worker and family. A slightly higher minimum wage rate applied for construction workers. The government enforced the minimum wage rates only for salaried workers employed by the government or registered with the social security office.

Labor federations attempted to fight for just treatment under the law for workers when companies failed to meet minimum salary requirements or discriminated between classes of workers, such as local and foreign workers. For example, the sanitary services company ASH continued to pay wages as low as \$23 (12 thousand CFA francs) a month to female employees who swept the streets of Abidjan. According to their labor federation, labor inspectors continued to ignore this violation of the law. The shipbuilding company Carena continued to discriminate between European engineers who were paid on average \$15,600 (8 million CFA francs) a month and their African colleagues who received approximately \$1,500 (800 thousand CFA francs) a month. Government labor and employment authorities did not take action in these cases.

The standard legal workweek was 40 hours. The law requires overtime pay for additional hours and provides for at least one 24-hour rest period per week. The law did not prohibit compulsory overtime. The government enforced the law in the formal sector only.

The law provides for occupational safety and health standards in the formal sector; however, in the large informal sector of the economy, the government enforced occupational health and safety regulations erratically, if at all. Labor inspectors frequently accepted bribes. Workers in the formal sector had the right to remove themselves from dangerous work without jeopardy to continued employment by utilizing the Ministry of Labor’s inspection system to document dangerous working conditions. However, workers in the informal sector ordinarily could not absent themselves from such labor without risking the loss of their employment.

Several million foreign workers, mostly from neighboring countries, typically worked in the informal labor sector, where labor laws did not apply.

DJIBOUTI

Djibouti is a republic with a strong presidency and a weak legislature. It has an estimated population of 660 thousand. On April 8, President Ismail Omar Guelleh, candidate of the ruling People’s Rally for Progress (RPP), won reelection; Guelleh ran unopposed amid an opposition boycott. International observers considered the election generally free and fair. The civilian authorities generally maintained control of the security forces.

The government's human rights record remained poor, and it continued to commit serious abuses; however, the government made improvements in some areas. The following human rights problems were reported:

- abridgement of citizens' rights to change their government
- abuse of prisoners and detainees
- harsh prison conditions
- official impunity
- arbitrary arrest and detention and prolonged pretrial detention
- interference with privacy rights
- restrictions on freedoms of press, assembly, and association
- use of force to disperse demonstrators and strikers
- violence and discrimination against women
- female genital mutilation (FGM)
- discrimination on the basis of ethnicity, nationality, and clan background
- restrictions on unions and harassment of union leaders

The government took steps during the year to improve human rights, including the suspension and arrest of allegedly corrupt public officials and the ratification of the Maputo Protocol outlawing FGM.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, police forcibly dispersed several demonstrations, which resulted in injuries and deaths (see section 2.b.).

The soldier responsible for killing a four-year-old child in a March 2004 automobile accident paid reparations to the child's parents during the year.

There were no developments in the July 2004 case in which four members of the gendarmerie reportedly severely beat a military pensioner, who subsequently died from his injuries. The chief of the gendarmerie refused to conduct an investigation or allow the accused to appear in court.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there continued to be reports that police and gendarmes beat and physically abused prisoners and detainees.

In March police arrested and reportedly beat Warris Mouhoumed, a businesswoman who refused police orders to close her restaurant during the two-week election campaign. Police charged that patrons of her restaurant, a gathering place for members of the opposition, insulted and threatened passersby. Mouhoumed was released the following day, and her restaurant remained closed for two weeks.

Police beat protesters while dispersing a demonstration during the year (see section 2.b.).

No action was taken against the two police officers responsible for the April 2004 assault on and arrest of opposition figure Mohamed Darar Waberi.

Members of police vice squads targeted prostitutes on the streets and reportedly raped them as a precondition for their release.

Prison and Detention Center Conditions.—Prison conditions were harsh, and overcrowding was a serious problem. Conditions at Nagad detention center, where foreigners were held prior to deportation, were unsanitary, and detainees often were not fed for several days before their deportation. Medical care was inadequate, and several prisoners reportedly suffered from untreated illnesses or injuries received during arrest.

In principle juveniles were held separately from adult prisoners; however, this was not always the case. Children under the age of five sometimes were allowed to stay with their mothers. Pretrial detainees usually were not held separately from convicted prisoners due to the lack of facilities.

The government granted prison access to the International Committee of the Red Cross for annual inspections.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, the government did not respect these prohibitions.

Role of the Police and Security Apparatus.—Security forces include the National Police Force (FNP), under the Ministry of Interior, the army and Gendarmerie Nationale, under the Ministry of Defense, and an elite Republican Guard, under the

presidency. The FNP is responsible for internal security, border control, and prisons. The Gendarmerie Nationale is responsible for external security but also has some domestic security responsibilities. The Republican Guard is responsible for the protection of the president.

Police were generally effective; however, there were reports of corruption, particularly in the lower ranks, where wages were low. Official impunity was a problem.

Arrest and Detention.—The law requires arrest warrants and stipulates that the government may not detain a person beyond 48 hours without an examining magistrate's formal charge; however, the law was not always enforced in practice. Detainees may be held another 24 hours with the prior approval of the public prosecutor. All persons, including those accused of political or national security offenses, must be tried within eight months of arraignment. The law also provides for bail and expeditious trial; however, police occasionally disregarded these procedures. Detainees have the right to prompt access to an attorney of their choice; in criminal cases, the state provides attorneys for detainees without legal representation.

Security forces arbitrarily arrested and detained numerous persons, some of whom were beaten (see section 1.c.). Security forces also arrested demonstrators and strikers during the year (see sections 2.b. and 6.b.).

Unlike in the previous year, there were no reports of persons having to pay bribes to be released during roundups of illegal foreigners.

On March 19, Houssein Robleh Darar, Awad Robleh Waiss, and Abdi Osman Nour, members of the opposition Djiboutian Union for Justice, were arrested and detained for being "threats to the population" and for "degradation of the wellbeing of others and violence." The government claimed the arrests were to prevent the three men from carrying out threats to plant bombs and destroy property; however, opposition journals claimed the three were arrested because of their opposition to the government. In August the court dismissed all charges against the men, who were subsequently released from Gabode Prison.

There were no other reports of political detainees at year's end.

Lengthy pretrial detention was a problem; however, no statistics were available.

Amnesty.—On June 27, the government released or reduced sentences of prisoners as part of an Independence Day amnesty. Prisoners serving one year or less were released; prisoners with longer terms received reductions in their sentences. The amnesty excluded drug dealers, those held for misuse of public funds, those that committed violence against their families, and rapists.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, in practice the judiciary was not independent of the executive. Constitutional provisions for a fair trial were not universally respected, even in nonpolitical cases. The judiciary was subject to inefficiency and corruption.

The judiciary, based on the French Napoleonic code, was composed of a lower court, an appeals court, and a Supreme Court. The Supreme Court may overrule lower court decisions. Magistrates are appointed for life terms. The constitutional council rules on the constitutionality of laws, including those related to the protection of human rights and civil liberties; however, its rulings did not always protect these rights.

The legal system is based on legislation and executive decrees, French codified law adopted at independence, Islamic law (*Shari'a*), and nomadic traditions. Urban crime was dealt with in the regular courts in accordance with French-inspired law and judicial practice. Civil actions may be brought in regular or traditional courts. In 2004 the government published and began implementing the 2002 Family Code, which replaces *Shari'a* in governing the majority of laws pertaining to family and personal matters, including marriage, divorce, child custody, and inheritance matters. Issues that fall under the Family Code are brought to civil court, and both parties can present their case to a judge; the court then tries to reach a reconciliation agreement between the two parties. If no solution can be found, the judge decides the case based on the appropriate statutes in the Family Code.

Trial Procedures.—Trials generally were public, except in politically sensitive cases when security measures effectively prevented public access. Legal counsel was supposed to be available to the indigent in criminal and civil matters, but defendants often did not have legal representation. The law states that the accused is innocent until proven guilty; however, defendants were not always presumed innocent. A presiding judge and two accompanying judges heard court cases. The latter received assistance from two lay assessors who were not members of the bench but who were considered to possess sufficient legal knowledge to comprehend court proceedings. The government chose lay assessors from the public, but reports indicated that political and ethnic affiliations played a role in the selection.

Traditional law often applied in conflict resolution and victim compensation. For example, traditional law often stipulated that a blood price be paid to the victim's clan for crimes such as murder and rape.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, the government did not respect these prohibitions in practice. The law requires that authorities obtain a warrant before conducting searches on private property, but in practice the government did not always obtain such warrants. The government reportedly monitored and sometimes disrupted the communications of government opponents by cutting their telephone or electricity service. Police reportedly frequently followed persons who attended opposition rallies.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government restricted these rights in practice. The government intimidated journalists into practicing self-censorship.

The law prohibits the dissemination of false information and regulates the publication of newspapers. The government owned the principal newspaper, *La Nation*, which published three times a week. In addition, each registered political party is permitted to publish a public journal. There were several opposition-run weekly and monthly publications that circulated freely and openly criticized the government.

The government also owned the radio and television stations. The official media generally did not criticize government leaders and government policy. Radio-Television Djibouti, the official government station, broadcast 24 hours a day in four languages on the radio. Foreign media also broadcast throughout the country.

The government used several tactics to intimidate journalists, including surveillance and the removal from newsstands of publications that criticized the government; however, unlike in previous years, no publications were closed.

Unlike in the previous year, no persons were arrested for libel, nor were any journalists detained.

There were no government restrictions on the Internet.

The government generally did not restrict academic freedom, and teachers could speak and conduct research without restriction, provided that they did not violate sedition laws. However, the government continued to block the salaries of teachers involved in strike activity (see section 6.b.).

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—Although the law provides for freedom of assembly, the government limited this right in practice. The Ministry of Interior requires permits for peaceful assembly and monitors opposition activities. Some opposition leaders effectively practiced self-censorship and refrained from organizing popular demonstrations to avoid provoking a government crackdown.

Police forcibly dispersed demonstrations during the year, which resulted in one death and several injuries. For example, on April 8, police fired tear gas into a crowd of demonstrators assembled in front of opposition headquarters, resulting in injuries; several persons were briefly detained. Police, who denied there were any injuries, charged that the protesters had not received permission and that only those refusing to disperse were arrested.

On October 24, police fired shots into a violent crowd of approximately 300 protestors after the demonstrators dragged several police officers into the crowd; one demonstrator was killed, and another was seriously injured. Seven police officers were injured from rocks thrown by the crowd. An investigation into the incident was ongoing at year's end.

On November 30, the last day of a weeklong operation to remove illegal housing in the Arhiba II neighborhood of Djibouti, police fired on residents protesting the removal of their homes; 4 persons were killed, and approximately 10 were injured. According to the Interior Ministry, 15 police officers also were injured during the confrontation.

Police forcibly dispersed violent labor demonstrations during the year (see section 6.b.).

Freedom of Association.—The law provides for freedom of association provided that certain legal requirements are met; however, the government restricted this right in practice. The government required political parties and nonpolitical associations to register. The government continued to harass and intimidate members of opposition groups (see section 1.f.).

c. Freedom of Religion.—The constitution, while declaring Islam to be the state religion, provides for freedom of religion, and the government generally respected

this right in practice. The government did not sanction those who ignored Islamic teachings or practiced other faiths. More than 99 percent of the population was Sunni Muslim.

The government requires that religious groups register. Unlike in previous years, there were no reports that Baha'i groups were denied the right to register; however, they did not attempt to register during the year because they believed the government would not allow their registration.

There is no legal prohibition against proselytizing; however, it was discouraged.

Societal Abuses and Discrimination.—There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2005 *International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, the government at times limited them in practice.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared protection. However, there were unconfirmed reports during the year of the forced return of persons to a country where they feared persecution, specifically Ethiopia and Eritrea. The government did not routinely grant refugee or asylum status, and the government did not accept refugees for resettlement during the year. The government cooperated with the UN High Commissioner for Refugees (UNHCR) in providing assistance to refugees and asylum seekers.

On June 9, three Ethiopian Air Force personnel landed an Ethiopian military helicopter at Ambouli International Airport; two of the three reportedly requested asylum. The government contacted the Ethiopian military, which sent a delegation that met with the three and reportedly convinced them to return to Ethiopia the following day. On June 15, Amnesty International and the UNHCR, which were not granted access to the men, issued a press release noting that the crewmembers could face treason charges and the death penalty upon their return to Ethiopia. No information on the treatment of the crewmembers upon arrival in Ethiopia was available. At year's end family members told the local press that the pilots were being held incommunicado at an airforce base.

In June 2004 the government processed approximately eight thousand requests for asylum from undocumented foreigners who claimed fear of persecution during the 2003 mass expulsion of illegal immigrants. The government granted prima facie refugee status (temporary refugee status which can be revoked once a case is investigated) to more than 4 thousand southern Somalis and 100 Ethiopians, all of whom were transferred to either Ali-Adde or Hol-Hol refugee camps.

Unlike in the previous year, there were no reports of the rape of refugee women.

During the year the government continued to round up and deport undocumented foreigners—primarily from Ethiopia, Somalia, and Yemen; there were no reports of abuses during these roundups. In 2003 more than 80 thousand undocumented foreigners were forced to leave the country, and there were numerous reports of deaths resulting from exposure and overcrowding.

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; however, the government limited this right in practice.

Elections and Political Participation.—On April 8, President Guelleh of the RPP, which has ruled the country since independence, won reelection with 95 percent of the vote; Guelleh ran unopposed. The opposition boycotted the election, charging that the government ignored its demands for electoral reform. International observers considered the election generally free and fair; however, there were irregularities, including double voting, the presence of campaigners in and around polling stations, and the absence of blank ballots for those who did not want to vote for President Guelleh.

There were 7 women in the 65-seat legislature; these seats were reserved for women by presidential decree. The country's first female parliament members took office when the Union for the Presidential Majority (UMP) legislature convened in 2003. In July the Ministry of Foreign Affairs promoted Hawa Ahmed Youssouf to minister of international cooperation. Aicha Mohamed Robleh replaced Youssouf as

minister of state for the promotion of women, family, and social affairs. Khadija Abeba is president of the Supreme Court and the highest-ranking female official.

There were 9 members of minorities—non-Issa Somali clans (Issaks, Gadaboursis, and Darood) and Arabs—in the 65-seat legislature. There were 3 members of minorities in the 20-seat cabinet. The president's subclan, the Issa Mamassans, wielded disproportionate power in affairs of state. Afars held a number of senior ministerial posts, but they were not well represented at lower levels. Somali clans other than the Issa, and citizens of Yemeni origin, were limited unofficially to one ministerial post each. There also were informal limits on the number of seats for each group to preserve balance in the parliament.

Government Corruption and Transparency.—During the year the government took significant steps to combat corruption, which was a problem. In July the Ministry of Finance arrested two officials suspected of corruption and suspended several others while their cases were under investigation. The two officials who were arrested remained in Gabode Prison awaiting trial at year's end. The director of Gabode Prison also was arrested for alleged corruption and was awaiting trial in the prison he directed at year's end.

There were no laws to provide public access to government information, and it was unclear whether persons would be granted such access if they asked. During the year the Chamber of Public Accounts and Fiscal Discipline, a public expenditures audit board established to fight corruption and promote transparency, released the results of its second annual report on government expenditures to the public.

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

A few domestic human rights groups generally operated without serious government restriction, conducting limited investigations and sometimes publishing their findings on human rights cases. Government officials generally disregarded their views. The local human rights group LDDH operated without government interference during the year. The Union of Djiboutian Women and the Djiboutian Association for the Promotion of the Family promoted the rights of women and children.

The International Committee of the Red Cross (ICRC) maintained a small office that was staffed with locally hired personnel. The ICRC regional representative, who was based in Nairobi, visited the country during the year.

There was a government ombudsman, who also served as a legislator in the parliament and whose specific responsibilities included mediation between governmental and nongovernmental organizations (NGOs). According to the 2004 ombudsman report, however, less than half the cases submitted were successfully mediated.

In May 2004 the government held a national forum on human rights to solicit public views and discuss possible human rights legislation; however, the results of the forum had not been released by year's end.

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

The law prohibits discrimination on the basis of language, race, or sex; however, discrimination against women and ethnic minorities persisted. The government's enforcement of laws to protect women and children was ineffective.

Women.—Domestic violence against women existed, but few cases were reported. The law prohibits "torture and barbaric acts against a spouse," which are punishable by 20 years' imprisonment. Violence against women generally was addressed within the family or clan structure rather than in the courts. Police rarely intervened in domestic violence incidents, and the media reported only the most extreme examples, such as murder. The law includes sentences of up to 20 years' imprisonment for rapists. The number of such cases prosecuted during the year was unknown. There is no law against spousal rape.

An estimated 98 percent of females in the country have undergone FGM, which traditionally was performed on girls between the ages of 7 and 10. The efforts of the Union of Djiboutian Women and other groups to educate women against the practice were having some effect in the capital city; however, infibulation, the most extreme form of FGM, continued to be widely practiced in rural areas. The law states that "violence causing genital mutilation" is punishable by 5 years' imprisonment and a fine of more than \$5,650 (1 million DF); the government had not yet convicted anyone under this statute.

During the year the government launched a campaign against FGM, which culminated with the country's ratification of the Maputo Protocol outlawing FGM. The government also hosted a February subregional conference to address Islam's position regarding FGM, and government representatives from 10 African countries and high-ranking Islamic authorities from throughout the region attended. In a written statement distributed to conference participants, President Guelleh called for an end

to FGM, noting, “We no longer want it practiced by Arabs, nor by Somalis, nor by Afars, nor in any other form . . . no female circumcision is justifiable.”

Prostitution is illegal, but it was a significant problem. In general there were two categories of prostitutes: those with apartments and those on the streets. The first group was largely tolerated and catered to the foreign (particularly military) community, while police usually targeted those on the streets. Refugees and girls from poor families were at greater risk of becoming street prostitutes.

The law does not prohibit sexual harassment, and it was a problem.

Women legally possess full civil rights; however, custom and traditional societal discrimination in education have resulted in a secondary role for women in public life and fewer employment opportunities. Women largely were confined to trade and secretarial fields. In 2004 the government published and began implementing the 2002 Family Code, which replaces Shari’a in governing the majority of laws pertaining to family and personal matters (see section 1.e.). Male children inherited larger percentages of estates than did female children. The few women who were educated increasingly turned to the regular courts to defend their interests.

Children.—The government devoted almost no public funds to the advancement of children’s rights and welfare. A few charitable organizations worked with children.

Primary education was compulsory; however, the government did not monitor compliance. The highest level of education reached by most students was completion of primary school. The government provided tuition-free public education, but extra expenses, such as transportation, book fees, and chalk, could be prohibitive to poorer families. School facilities continued to be inadequate. Teacher salaries continued to be in arrears, and a large percentage of highly qualified teachers have left the profession (see section 6.e.). Approximately 20 percent of children who started secondary school completed their education.

The educational system did not discriminate against girls, but societal attitudes resulted in differences in the attendance and treatment of girls in school. According to the Ministry of Education, 50 percent of girls were enrolled in primary school during the year, compared with 60 percent of boys; during the previous year primary school enrollment rates were 42 percent for girls and 58 percent for boys. In rural areas, limited access to schools, a shortage of educational materials, and cultural attitudes led to significantly lower enrollment and greater disparities in enrollment between boys and girls.

Child abuse existed; however, the government has not used existing provisions of the law to deal seriously with child abuse, and punishments generally were light. For example, perpetrators of rape or abuse generally were fined an amount sufficient to cover the child’s medical care.

FGM was performed on as many as 98 percent of young girls (see section 5, Women).

Child marriage occurred in rural areas and among some tribal groups; however, it was not considered a significant problem. The government worked together with several NGOs to increase school enrollment for girls, in part to reduce the likelihood that parents would force their young girls into marriage. The Ministry for the Promotion of Women, Family, and Social Affairs also worked actively with women’s groups throughout the country to protect the rights of girls, including the right to decide when and whom to marry.

Child prostitution existed. Some children that immigrated to the country for economic reasons engaged in prostitution to survive. There was no known system of organized pimps who exploited children; however, older children sometimes acted as “protectors” and took a portion of other children’s earnings as a fee.

Child labor existed (see section 6.d.).

Trafficking in Persons.—The law does not prohibit trafficking in persons. Although there were no known reports of persons being trafficked to, from, or within the country, observers believed the country to be a destination for individuals trafficked from Ethiopia and Somalia and a country of transit to the Middle East. Trafficking could be prosecuted under various sections of the law, including “exploitation of the weakness or ignorance of persons” or “exerting pressure on a person so that the person engages in prostitution.” On February 8, the government ratified the UN Convention Against Corruption and the UN Convention Against Transnational Organized Crime, including antitrafficking protocols.

Persons with Disabilities.—Although persons with disabilities have access to education and public health facilities, there is no specific law that addresses the needs of persons with disabilities, and there are no laws or regulations that prevent job discrimination against persons with disabilities. There was societal discrimination

against persons with disabilities. The government did not mandate accessibility to buildings or government services for persons with disabilities.

National/Racial/Ethnic Minorities.—The government continued to discriminate against citizens on the basis of ethnicity in employment and job advancement. Somali Issas were the majority ethnic group and controlled the ruling party, the civil and security services, and the military forces. Discrimination based on ethnicity and clan affiliation limited the role of members of minority groups and clans in government and politics.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right to join unions; however, the government restricted these rights. Under the labor code, a union must have government sanction to exist. The government continued to suppress independent, representative unions by firing their leaders, preventing them from holding congresses, and creating government-sponsored shadow unions to replace them.

The law prohibits antiunion discrimination, and employers found guilty of discrimination were required to reinstate workers fired for union activities; however, the government neither enforced nor complied with the law.

b. The Right to Organize and Bargain Collectively.—Although the law allows unions to conduct their activities without interference, the government did not protect this right in practice. Collective bargaining did not occur.

There were no special laws or exemptions from regular labor laws in the export processing zone.

Relations between employers and workers were informal and paternalistic. The government could and did select labor representatives. Employers generally established wage rates based on labor ministry guidelines. In disputes over wages or health and safety problems, the Ministry of Labor encouraged direct resolution by labor representatives and employers. Workers or employers may request formal administrative hearings before the ministry's inspection service. Critics claimed that inspection and dispute settlement suffered from poor enforcement due to their low priority and inadequate funding.

The law provides for the right to strike and requires representatives of employees who plan to strike to notify the Ministry of Interior 48 hours in advance; workers exercised this right in practice.

The law confers upon the president broad powers to requisition public servants who are considered indispensable to the operation of essential public services.

During the year the government retaliated against strikers. For example, on May 17, opposition publications reported that Hassan Cher Hared, a postal service agent and vice president of the Djiboutian Workers' Union, was suspended for eight days and subsequently dismissed from the postal service for "recidivism." Hared had criticized postal service management during a May 1 demonstration to celebrate International Labor Day. Postal service management claimed the dismissal resulted from Hared's failure to return to work after his suspension; however, some observers charged that the dismissal resulted from Hared's union activities.

After the September 14 port strikes, the Direction of the Port of Djibouti (the direction) dismissed 11 members of the Port Workers Union (UTP) for failing to properly follow regulations for declaring a strike and arrested them for "public disturbance" and "incitement to rebellion." On October 2, the National Prosecutor found the 11 not guilty and released them. On September 15, the direction dismissed 25 union members, allegedly for poor work records prior to the September 14 strike. On September 24, after a breakdown in mediation, the direction detained 167 strikers for 48 hours.

The government continued to block the salary of Kamil Hassan, a schoolteacher who led a teacher's strike in 1997; however, Hassan was allowed to return to teaching during the year.

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

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits all labor by children under the age of 14, but the government did not always enforce this prohibition effectively, and child labor, although not common, existed. Children generally were not employed in hazardous work but worked in family-owned businesses, such as restaurants and small shops, at all hours of the day and night. A shortage of labor inspectors reduced the likelihood that reports of child labor would be investigated.

e. Acceptable Conditions of Work.—Only a small minority of the population was engaged in wage employment. The government administratively sets minimum

wage rates according to occupational categories, and the Ministry of Labor is charged with enforcement. The monthly wage rate for unskilled labor, set in 1976, was approximately \$125 (22 thousand DF); however, it was not enforced in practice. The national minimum wage did not provide a decent standard of living for a worker and family. The government still owed three months of salary arrears from 1995 and 1997 to teachers, security forces, and civil servants.

By law, the workweek was 40 hours, normally spread over 6 days. The law mandates a weekly rest period of 24 consecutive hours and the provision of overtime pay. The Ministry of Labor is responsible for enforcing occupational health and safety standards, wages, and work hours. Because enforcement was ineffective, workers sometimes faced hazardous working conditions. Workers rarely protested, mainly due to fear that others willing to accept the risks would replace them. There were no laws or regulations permitting workers to refuse to carry out dangerous work assignments without jeopardizing their continued employment.

Only legal foreign workers were protected under the law.

EQUATORIAL GUINEA¹

Equatorial Guinea, with an estimated population of 500 thousand, is nominally a multiparty constitutional republic. In practice the party founded by President Teodoro Obiang Nguema Mbasogo (Partido Democratico de Guinea Ecuatorial) and his Fang ethnic group, which has ruled since the country's independence in 1968, dominated the government. The 2002 presidential election was marred by extensive fraud and intimidation. The international community widely criticized the 2004 parliamentary elections as seriously flawed. While civilian authorities generally maintained effective control of the security forces, there were some instances in which security forces acted independently of government authority.

The government's human rights record remained poor, and the government continued to commit or condone serious abuses. The following human rights problems were reported:

- abridgement of citizens' right to change their government
- security force torture, beating, and other physical abuse of prisoners and detainees
- harsh and life-threatening prison conditions
- impunity
- arbitrary arrest, detention, and incommunicado detention
- harassment, detention, and deportation of foreign residents
- judicial corruption and lack of due process
- restrictions on the right of privacy
- severe restrictions on freedom of speech and of the press
- restrictions on the rights of assembly, association, and movement
- government corruption
- restrictions on human rights nongovernmental organizations (NGOs)
- violence and discrimination against women
- trafficking in persons
- discrimination against ethnic minorities and HIV/AIDS victims
- restrictions on labor rights
- forced labor
- child labor

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Based on available information, the government or its agents did not commit politically motivated killings; however, security forces reportedly killed several persons through abuse and excessive force.

¹The American Embassy in Malabo was reopened in October 2003 and was staffed during the year by one officer; this officer was assisted by other Embassy officials who were resident in Cameroon, which limited the ability to gather information. An increase in international media coverage of Equatorial Guinea during the year facilitated the preparation of this report.

The link between the June shooting in Spain of Manuel Moto Tomo, brother of exiled activist German Pedro Tomo Mangue (who reportedly was the target), and the shooting of the manager for a business in which the Minister of National Security is the major shareholder is being investigated by Spanish authorities. There were continuing reports of government figures hiring persons in foreign countries to intimidate, threaten, and even assassinate citizens in exile, including Severo Moto.

There were no developments, nor were any expected, in the alleged torture case of German citizen Gerhard Eugen Nershz, who was arrested in March 2004 on accusations of plotting a coup and died in Black Beach Prison in Malabo.

No action was taken, nor was any expected to be taken, against soldiers responsible for the May 2004 killings of between 12 and 16 persons suspected to be plotting a coup attempt.

There was no action taken, nor was any expected, against border guards responsible for the July 2003 killing of a Spanish aid worker in Bata.

The government did not prosecute any members of the security forces considered responsible for unlawful killings in previous years, nor was it likely to do so.

b. Disappearance.—There were reports of politically motivated kidnappings. For example, in August two political refugees were reportedly kidnapped at night from their home in Libreville, Gabon. Their kidnappers drove them to the Equatorial Guinean Embassy, where the two refugees escaped to the UN High Commission for Refugees (UNHCR) with the help of local Gabonese. In 2004 the government had accused some of its citizens living in Gabon of attacking the island of Corisco.

In September Amnesty International (AI) reported that navy Commandant Juan Ondo Abaga, former Lieutenant Colonel Florencio Ela Bibang, Felipe Esono Ntumu “Pancho,” and Antimo Edu had all disappeared. Abaga, a refugee resident in Benin, allegedly was abducted from Benin by Equatorial Guinean security personnel in January and taken to Black Beach Prison where he allegedly was tortured. Bibang and Ntumu had fled the country in October 2004 and were arrested in Lagos, Nigeria in April along with Edu and held incommunicado, first at the Nigerian Army Intelligence Authority in Lagos and subsequently in the Nigerian State Security Services in Abuja. In July security personnel from the country, with the participation of Nigerian security personnel, reportedly abducted them, transported them to Malabo, and imprisoned them at Black Beach Prison, where they were reportedly severely tortured. When asked about their status, the government claimed to have no record. Reportedly they were being held in an old section of Black Beach prison.

In a May press report, exiled opposition leader Severo Moto claimed the government attempted to kidnap and assassinate him; the government denied the charge. A UN IRIN (press agency) report confirmed that Severo Moto had accused the government of hiring hit men to kill him while in Croatia. A member of the opposition told IRIN that Moto denied earlier reports that Spanish officials were behind the plot to kill him. Spain, where he had been living in exile, rescinded his political refugee status during the year, for what they considered activities incompatible with his status as a political refugee. Others criticized this as a Spanish bid to normalize relations with Equatorial Guinea. Severo Moto had been convicted by the country’s courts three times in *absentia* of attempting to overthrow the government. He was most recently sentenced to 63 years in prison in November 2004.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law does not specifically prohibit such practices, and although the law mandates respect for the liberty and dignity of persons and adherence to the Universal Declaration on Human Rights, members of the security forces tortured, beat, and otherwise abused suspects, prisoners, and opposition politicians. In September AI reported that torture was widespread in the country’s places of detention and during the course of trials. In 2004 senior government officials told foreign diplomats that human rights did not apply to criminals and that torture of known criminals was not a human rights abuse. No action has been taken, or is expected to be taken against security forces responsible for torture.

Unlike in the previous year, there were no reports that prisoners died from torture; however, there were reports that officials tortured political opposition activists and other persons during the year. For example, on May 8, a group of 15 members of the opposition party Convergence for Social Democracy (CPDS) were violently attacked at the Malabo airport. When the group was passing through the police checkpoint to enter the departure hall, policemen asked the group for interior ministry authorization as a condition of travel. Policemen then violently attacked the young people and those accompanying them, hitting them with the butts of their handguns, causing substantial injury to several of them, and leaving some girls in the group undressed in public. At least 10 were detained on police premises, including

one who suffered serious injuries and was given no medical treatment. They were released one week later.

About 70 people charged with offenses related to an alleged coup attempt in October 2004 reportedly were tortured before and during their questionable secret military trial in September. The group consisted of former military officers and relatives of the alleged leader of the attempted coup. Most of the defendants were held incommunicado in Bata Prison since their arrests in October and November 2004. All but two of the defendants reportedly stated in court that they had been tortured in detention and some reportedly still bore visible marks. One man apparently had to be carried in and out of court as he was still unable to walk. One woman reportedly suffered from vaginal bleeding as a result of torture. AI reported that statements were extracted by torture during incommunicado detention at Bata Prison and used as evidence (see section 1.d.).

No action was taken, nor is any expected to be taken, against the responsible authorities for the following 2004 cases: the torture of five persons arrested on Corisco Island; the shooting of Popular Party (PP) leader, Marcelino Manuel Nguema Esono; the torture of Weja Chicampo; and the torture of Lieutenant Colonel Maximiliano Owono Nguema. Weja Chicampo, Marcelino Esono, and Maximiliano Nguema apparently remained in jail at year's end.

No action was taken against members of the security forces responsible for the 2003 of torture of opposition leader Felipe Ondo Obiang.

During the year local authorities singled out foreigners from neighboring countries for harassment, such as verbal intimidation and arbitrary arrest. Police routinely extorted money from citizens of Cameroon, Nigeria, Ghana, Togo, and Benin. In March 2004 following a coup attempt led by foreigners, the government increasingly and arbitrarily harassed, arrested, and deported foreigners of African nationalities. Police in Bata and Malabo often used excessive force, including beatings, and looted property during the arrests and deportations; in addition, some deportees said that police raped them. Reports of police harassment continued during the year. Foreigners from neighboring countries, South Americans, Asians, and Eastern Europeans traveling or working in the country were often stopped and asked to present their papers. This was reportedly done because the government believed there were many clandestine and illegal arrivals of potential terrorists and mercenaries. Many were asked to pay bribes (fines) while they waited for their residence documents. In some cases local authorities were relieved of their duties when these events came to international attention.

During the year security personnel continued to periodically harass oil company employees, primarily by delaying them at checkpoints and demanding small bribes.

Prison and Detention Center Conditions.—The conditions of jails and prisons in the country remained harsh and life threatening; inmates frequently were not provided with sufficient and consistent food, medical care, working toilets, drinkable water, or clean and healthful living space. Medical attention was often denied or unavailable to prisoners with gangrene, broken bones, infections, and potentially fatal but curable illnesses. There were credible reports that conditions at Black Beach Prison continued to improve, and some prisoners occupied a new building there with better facilities; however, there were also credible reports that prison authorities tortured prisoners (see section 1.c.). In March members of the opposition National Popular Union (NPU) reported that prison authorities of Black Beach Prison had toughened conditions by denying prisoners access to food brought to them by relatives. In April AI charged that Black Beach officials had stopped providing at least 70 prisoners with meals and blocked all contact with their families, lawyers, and consular officials, and were in danger of death due to starvation and torture. AI also reported that all prisoners were kept in their cells for 24 hours a day and that foreign detainees were held with their hands and legs cuffed at all times. President Obiang denied the allegations on national radio, claiming that the facility's prisoners were well treated, and invited AI to visit the prison. In June AI reported that the food situation had improved since the press release was issued. According to AI the prisoners' diet remained inadequate, but prison authorities had resumed daily rations of rice. AI did not state whether its representatives visited the prison to make this determination, but almost certainly they did not. Later reports indicated that food rations ran short during each month to the extent that the prison management again had to permit family members to bring food.

Some prisoners received some medical treatment, but this was irregular and undependable. Prisoners needing daily medication, such as diabetics, almost never received it. Only in those cases where family members had connections and provided the medication, or there was international attention regarding the case, did prisoners receive medications. Not even aspirin was stocked at the prisons, and there was no treatment for common but potentially fatal illnesses such as malaria.

Prison authorities and male prisoners sexually assaulted female prisoners. There were credible reports that police gang-raped female prisoners in Malabo. Prisoners were used habitually as labor and as workers on construction projects for certain officials, without pay or other compensation. There were unconfirmed reports that judges used prisoners as domestic workers.

Male and female prisoners were not held in separate facilities, nor were juveniles held separately from adult prisoners. Pretrial detainees were not held separately from convicted prisoners.

The International Committee of the Red Cross (ICRC) and some foreign diplomats visited detainees and prisoners at prisons and police stations multiple times during the year. The ICRC was allowed visits in accordance with its standard modalities—meetings with prisoners without third parties and regular, repeated visits. The ICRC made recommendations to the government but did not release them publicly.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, but the government did not enforce it. There were nominal legal procedural safeguards regarding the protection of citizens' rights, including provisions concerning detention and the requirement for search warrants; however, security forces systematically ignored these safeguards and continued to arrest and detain persons arbitrarily and with impunity. Security forces often detained individuals "on orders from superiors" without any further formality.

Role of the Police and Security Apparatus.—Responsibility for public security is divided between the police, who are primarily responsible for security in urban centers, and the gendarmes, who have responsibility for the areas outside the cities and for special events within cities. Both are under the control of the Ministry of National Security. Corruption was endemic within the security forces. Citizens who were not police officers were allowed to arrest persons suspected of being illegal residents, increasing the frequency of arbitrary arrests based on xenophobia. Members of the security forces were rarely held accountable for abuses; impunity for police officers and gendarmes was a serious problem. There are no mechanisms to investigate allegations of police abuse. The police are misused by other ministries to harass and threaten persons and to confiscate property, instead of those ministries pursuing proper legal recourse for supposed infractions.

The government frequently requested assistance for the retraining and to professionalize the police forces. One western country has reportedly been involved in that to a very limited extent. The government began limited workshops on human rights specifically for security personnel.

Arrest and Detention.—Arrests do not require warrants. Police can detain persons whom they arrest for up to five days before a judicial hearing. In practice the length of such detentions was usually much longer, even years. The law provides a person in detention with the right to a prompt judicial determination of the legality of the detention, but the authorities did not respect this right in practice. Defense lawyers did not receive full indictments against their clients. A request by the attorney Fabian Nsue to visit the eight South African mercenaries sentenced in November 2004 for conspiracy against the government was rejected in April by the Supreme Court. Detainees were not promptly informed of the charges against them. Four Nigerians connected with the coup attempt were held at Black Beach prison for several months without charges or trial and without their embassy being notified. There was no official bail system. Legal access depended on the nature of the crime and bribes, and there was no system to provide lawyers for the indigent. The South African prisoners from the 2004 coup attempt were not allowed to meet with their attorney until three days before the trial. Some limited visitation by family members was permitted at Black Beach prison, though it was periodically cut off during the year for unexplained reasons.

The lack of a published penal code allows for frequent abuses by security forces. Police routinely detained prisoners and held them incommunicado (see section 1.c.). Reliable files, including medical records, were not kept on those imprisoned.

The government did provide responses on the status of 39 persons previously detained for crimes against the state. Several of the persons had been detained for months or years without judicial proceedings. They were brought before a judge during the year for brief hearings and remanded back to prison for unspecified crimes against the state, rebellion, or terrorism, to be held in "preventive detention" until trial. In at least three cases, a previous judgment of completion of sentence was overruled by the government's Fiscal (attorney general) for unexplained reasons. For 20 persons the government said there was no information, although many sources have reported their detention.

The government used arrest, beatings, and other forms of harassment to intimidate opposition party officials and members.

Arbitrary arrest was a serious problem. Local authorities singled out foreigners from neighboring countries for arbitrary arrest, harassment, and deportation (see section 1.c.). On February 7, security officials detained 12 Cameroonian forestry workers, including 1 woman, as they were carrying out a routine operation to identify timber species in the forest bordering the two countries. The forestry workers were reportedly paraded nude through the town of Ebebiyin before being taken to Bata Prison, where they were molested and held in unsanitary conditions until May 10 (two of the hostages had escaped two weeks earlier.) Upon their release, the Cameroonian detainees were reported to be visibly emaciated and weak. In May the governor of the Littoral Province had a Cameroonian auto mechanic arrested and beaten in Bata over a petty commercial dispute involving the governor's automobile.

Security forces detained relatives of prisoners and criminal suspects in an attempt to force the prisoners or suspects to cooperate (see section 1.f.).

There were reports of political detainees. During the year authorities reportedly detained members of political opposition parties (see section 1.c.). Prominent members of the "illegal" opposition Republican Democratic Forces (FDR), the PP, and the NPU remain detained at Black Beach Prison for their political activities. It remained difficult to estimate the number of political detainees, although it was believed to be fewer than 100 persons. FDR leader Felipe Ondo Obiang, arrested in March 2002 in connection with an alleged coup plot, was reportedly tortured and remained in Evaniyong Prison at year's end. He was chained to the wall by his left leg, which became swollen, and was held in solitary confinement for several months. It was believed that the 30 other prisoners arrested along with Ondo Obiang, including FDR leader Guillermo Nguema Ela, remained in prison, despite having been granted partial amnesty. Access to political detainees was highly restricted. If international organizations were willing to apply for permission, the government would consider their requests on a case by case basis.

In 2004 police arrested Air Force Captain Felipe Obama. There were no reports that charges had been filed against him or that he had been released. Also in 2004 CPDS party member Pio Miguel Obama was arrested and held at the central Malabo police station. At year's end no charges had been filed, and according to opposition reports, he had not been released. According to the CPDS, in connection with the November 2004 arrest of 50 military officers, 100 additional persons were arrested in January. The government did not explain the reasons for the arrests. Although not clear, it appeared that these were the same individuals that were tried in a secret military court in September. All received long sentences and had no access to a defense attorney.

Pretrial detention was a problem. The majority of political detainees had not been charged, and their cases had not been heard in court. They may be held "pending completion of investigation" for an undefined amount of time. Persons often remained in detention at police stations awaiting hearings for longer than the five days prescribed by law because judges were absent from their posts.

Amnesty.—In June President Obiang pardoned the six Armenians convicted in the March 2004 attempted coup after intense lobbying by the Armenian government and others.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the government did not respect this provision in practice. Judges served at the pleasure of the president, and they were appointed, transferred, and dismissed for political reasons. Judicial corruption was widespread. The president criticized corruption at the end of the year, and indicated that an overhauling of the judicial system was imminent.

The court system is composed of lower provincial courts, two appeals courts, a military tribunal, and the Supreme Court. The president appoints members of the Supreme Court, who report to him and take their orders from him in practice. At least two military generals, neither of whom was a lawyer, served on the Supreme Court. The president was the most powerful influence on the judicial branch. The law provides for the Ministry of Justice to undertake periodic inspections and name judges. There were approximately 60 judges in the country, about 20 percent of whom were trained lawyers. Some judges were regularly absent from their posts, resulting in delays in judicial proceedings.

In December 2004 upon the recommendation of the president of the Supreme Court, President Obiang fired a Malabo court of first instance judge and two of his clerks for incompetence and inaction in cases on his docket. The parliament's complaints commission was a virtual judicial authority, although it had no formal legal jurisdiction. According to local media, the parliament's president acted as a court of last resort.

Tribal elders adjudicated civil claims and minor criminal matters in traditional courts in the countryside.

Trial Procedures.—Some trials are public, if the defendant is accused of a minor crime, but juries are not used. Defendants have the right to be present, but they rarely were able to consult with an attorney in a timely manner. An attorney was not provided at public expense if defendants face serious criminal charges. By law defendants could confront or question witnesses against them or present witnesses and evidence on their behalf, but in practice this was rarely done. Defendants and their attorneys have limited access to government-held evidence relevant to their cases. By law defendants enjoy a presumption of innocence; and they have a right of appeal. Civil cases rarely came to public trial.

The code of military justice permits persons who disobey a military authority to be tried in a military tribunal even if they are not military personnel. Cases involving national security were tried by a military tribunal. Cases that essentially were political in nature frequently were referred to military courts, even when the defendants were civilians and the charges were not related to the military. Some defendants were tried without being present. The defense attorneys sometimes did not receive full indictments and only received their client's statements. The defense did not always have the right to cross-examine the accusers. Military courts did not provide due process or other procedural safeguards, and the proceedings were not public.

In July the Bar Association of Equatorial Guinea suspended the lawyer Fabian Nsue Nguema from practice for one year, along with a colleague from his law firm, after he defended South African mercenaries involved in a March 2004 coup attempt. Nsue Nguema received no prior notice of any allegations against him, nor was he given the opportunity to defend himself against any allegations. The International Bar Association (IBA) reported that the decision to disbar the attorneys was made in collaboration with the government. The IBA sent an observer to the November 2004 trials of alleged coup plotters and mercenaries. Their assessment was that the trial "fell far short of international fair trial standards." According to the IBA, the court refused to take into consideration allegations of torture by the defendants and their lawyers. The government failed to notify defendants of the charges against them during the pretrial period, and then denied them access to legal counsel until three days before the trial began. The prosecution did not present any evidence to substantiate the charges other than statements made by the defendants, later said to have been obtained under duress.

Political Prisoners.—The government continued to hold political prisoners, and it was estimated that there were fewer than 100 by year's end. These prisoners were all members of opposition parties or persons the government accused of involvement in coup attempts. During the year the ICRC and some foreign diplomats were permitted to visit them.

AI reported that the secret September trial of about 70 military officers, former military officers, and relatives of the alleged leader of the October 2004 attempted coup did not conform to international law standards of fair trials. A military court in Bata sentenced 22 men and a woman to lengthy prison terms. At least six persons were tried without being present, in contravention of national law. In all cases the defense lawyers did not have access to government-held evidence and only had their clients' statements. Defense attorneys' requests to cross-examine accusers were denied. Those convicted had no right of appeal. Allegations of torture in the course of the trial were ignored and no investigation into the allegations was conducted (see section 1.c.). Nine persons, including those tried without being present, were sentenced to 30 years in prison on the charges of undermining the security of the state and attempting to overthrow the government. Eleven others, including Florencia Nchama Mba, were convicted of the same offenses as accessories and sentenced to 21 years' imprisonment. Francisco Mba Mendama (who was also convicted of undermining the security of the state and received a 30-year prison sentence) and two others were convicted of treason and received 25-year prison sentences. One person received a 12-year prison sentence. Statements obtained under torture during incommunicado detention were used as evidence.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, the government did not respect these prohibitions in practice. There continued to be reports that security forces regularly searched homes and arrested occupants without warrants, generally with impunity. After making arrests, security personnel regularly looted homes, confiscated cars, and had family members evicted. After their release, arrested persons had no recourse for recovery of property and were often blacklisted from employment opportunities, reportedly under orders from members of the president's family.

There continued to be reports of government monitoring of members of the opposition parties, NGOs, and of foreign diplomats. During the year journalists and citizens continued to report that they strongly suspected monitoring of their telephone calls and e-mails by the government.

Authorities harassed, arrested, deported, and robbed foreign nationals, particularly West Africans (see section 1.c.).

The one Internet service provider was affiliated with the government telephone monopoly, and there were unconfirmed reports that the government monitored citizens using the Internet.

Security forces detained relatives of prisoners and criminal suspects to force the prisoners or suspects to cooperate (see section 1.c.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government severely restricted these rights in practice. During the year the government monitored journalists, the media remained firmly under government control, and journalists practiced self-censorship.

The government did not tolerate criticism of public institutions and public sector mismanagement and permitted no criticism of the president or the security forces. Opposition figures were warned that they should limit their criticisms to the floor of the parliament, where they were severely outnumbered and easily overruled. Expatriates dependent on the government did not voice complaints about the frequent abuses against them, ranging from the police demanding bribes for imaginary offenses to extortion of money by city, provincial, and federal officials for “licenses” for which there was no statutory basis. Private complaints about official conduct continued to be accompanied by requests not to be identified to avoid reprisals.

An independent or privately owned press was nearly nonexistent. There were three general-interest periodicals operating under nominal government control that published irregularly: *La Gaceta*, a Malabo-based monthly magazine printed in Spain and published by an employee of the Ministry of Information, Tourism, and Culture; *El Correo Guineo Ecuatoriano*, a bimonthly newspaper that was discontinued by the Gaceta group; and *Ebano*, a publication of the Ministry of Information, which appeared approximately twice a month. Foreign celebrity and sports publications were available for sale at foreign-owned grocery stores, but no newspapers; there were no bookstores or newsstands in the country.

Journalists were subject to harassment; however, unlike in the previous year, there were no reports that journalists were deported. For example on April 11, Pablo Gracia Saez, the editor of the Spanish-language service of the pan-African news agency AFROL News, received a threatening phone call from presidential spokesman Miguel Oyono. Oyono accused the Norway-based news agency of “waging a campaign against Equatorial Guinea” and warned Gracia of the “consequences” of what he reported. No known action was taken by the government at year’s end.

The law authorizes government censorship of all publications. During the year the Ministry of Information sometimes required publishers to submit a copy for approval prior to publication. In addition all local publications exercised self-censorship and were subject to prior restraint.

On June 9, airport police in Bata seized 200 copies of *La Verdad*, a small CPDS newspaper and the country’s sole opposition publication, which were destined for distribution on the mainland.

Radio was the most important and influential medium of mass communication. During the year the government continued to dominate domestic radio broadcasting. It owned and operated the station Radio Malabo, officially known as National Radio of Equatorial Guinea. The president’s son, Teodoro Nguema Obiang Mangue, owned the only private radio station, Radio Asonga. The government had not approved other applications for private radio stations that have reportedly been pending for several years.

The government generally withheld access to domestic broadcasting from opposition parties and rarely referred to the opposition in anything but negative terms when broadcasting the news.

The government-controlled national television station broadcast some government activities live, such as some sessions of parliament and national conferences. In some cases, voices of dissent were broadcast. Television Asonga, also operated by the president’s son, is broadcast by cable only in Bata. Foreign cable television was available and provided news in French, Spanish, and English, as well as entertainment programming. Satellite reception increasingly was available. The station broadcast foreign channels that reported news, which were not censored. The Spanish channel has occasionally reported stories about the country, which prompted

complaints from the government but not censorship. Satellite or cable programming was well beyond the means of the average citizen.

International electronic media was available and included Radio France International, which broadcast in Malabo, and Radio Exterior, the international short-wave service from Spain. Radio Exterior often broadcast news about the country and interviews with opposition politicians and was virtually the only means for the opposition to disseminate its views and positions widely. Its editorials frequently were highly critical of the government. The government regularly accused Radio Exterior, sometimes with justification, of misrepresenting the situation in the country.

The government may monitor citizens Internet access (see section 1.f.).

During the year the government did not overtly restrict academic freedom; however, professors practiced self-censorship regarding political matters.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for the right of assembly; however, the government restricted this right in practice. Government authorization must be obtained for private home meetings of more than 10 persons for discussions that the government considers political in nature. Although the government formally has abolished permit requirements for party meetings within party buildings, in practice opposition parties must inform the authorities if they wish to hold gatherings of any kind, regardless of location. Security forces generally monitored gatherings in public places, even small gatherings. The government required notification for public events; however, it usually granted permission for such events.

Unlike in the previous year, the government did not deny the CPDS permission to hold a convention. In July the CPDS was allowed to hold a convention in Bata, attended by foreign diplomats, with relatively little harassment. CPDS was not permitted to publicize the conference dealing with human rights laws passed by the government and by international bodies, nor was it allowed to invite the general public or members of other parties to participate in panel discussions.

Freedom of Association.—The law provides for the right of association; however, the government restricted this right in practice. The law prohibits the formation of political parties along ethnic lines. The law prohibits coalitions between political parties; however, six opposition groups continued to be part of a coalition, which allied itself with the ruling party during the year. Opposition party members complained of disruption of meetings. In addition the political opposition was often monitored during meetings.

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

The law includes a stated official preference for the Catholic Church and the Reform Church of Equatorial Guinea due to their traditional roots and historic influence in the social and cultural life. A Roman Catholic Mass normally was part of any major ceremonial function, such as the October 12 national day.

Unlike in the previous year, the government did not arrest and detain foreign missionaries, although one pastor received such serious threats that he returned to his West African country voluntarily.

A religious organization must be formally registered with the ministries of justice, religion, and penal institutions before its religious activities are allowed. There were no reports during the year that the government refused to register any group, although one group that believed it was registered was told that the process was not completed correctly and was temporarily shutdown. The approval process usually took several years, due primarily to general bureaucratic slowness and not generally as the result of any apparent policy designed to impede the operation of any religious group. However, in the previously mentioned case, it seemed that the lack of clearly written registration procedures can be used against a church when a political figure has a problem with its pastor or one of its influential members. In another case a major US evangelical figure had been brought to the country to conduct a crusade, and the church was blocked by a squad of armed police to embarrass a church officer and try to force him to conform to the wishes of a high government figure.

The government continued to restrict the clergy, particularly regarding open criticism of the government. During the year church representatives reported that they practiced self-censorship on these issues. The church requires government permission for any religious activity outside the church building, but in practice this requirement did not appear to hinder organized religious groups.

Religious study was required in schools and was usually, but not exclusively, Catholic.

Societal Abuses and Discrimination.—Protestants sometimes faced discrimination in schooling. For example, in 2004 a Protestant church official cited difficulties when

enrolling his children at school. At the school each child was required to lead a daily Catholic-based devotional. When the child's father requested that a teacher of the child's own faith be made available, the school official claimed there was a lack of funds and stated that the school could provide the teacher only if the child's church was willing to pay the teacher's salary.

The Jewish community is extremely small, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, the government limited them in practice. The police routinely stopped citizens at roadblocks, subjected them to searches, harassed travelers, and extorted money from them. Police and soldiers continued to harass foreigners, mainly because they were perceived to be wealthier than most citizens (see section 1.c.). The government justified the roadblocks as internal controls to compensate for its inability to control the country's borders effectively. These checkpoints effectively restricted the freedom of movement by members of the opposition.

In June Catholic Relief Services (CRS) reported worse than usual delays, bribery, and harassment at checkpoints during one of its regular trips to the country's mainland.

Officials of the government, including members of parliament, are supposed to receive permission from their ministers or heads before traveling abroad—supposedly so that they can be notified in case an emergency session of parliament or interministerial meeting must be held. Those prominent figures that did travel abroad without express permission were usually interrogated upon their return. For example on June 8 airport police searched luggage for two hours and confiscated documents in the possession of a CPDS leader as he returned to Malabo from a trip abroad. The police told him they were acting on orders from a superior.

The law does not permit forced exile; however, the government used forced internal exile but not forced external exile. Some persons have fled the country for political reasons. The leaders of the National Resistance of Equatorial Guinea Group reported that their attempts to return to the country were unsuccessful, and there were no reports of returnees during the year. In February Juan Ondo Abaga's refugee rights were abrogated, he was kidnapped, brought back to Malabo, and detained in Black Beach Prison (see section 1.b.). The government said it had no information regarding his circumstances. In August and September political refugees living in Gabon accused the government of two different attempts to kidnap them in Libreville (see section 1.b.).

Protection of Refugees.—The law provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has not established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the forced return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

The police reportedly continued to harass individual asylum seekers, often for bribes.

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; however, in practice citizens could not freely choose and change the laws and officials that govern them.

Elections and Political Participation.—There have been no free, fair, and transparent elections since independence in 1968.

The international community criticized the 2004 parliamentary elections as seriously flawed. Prior to elections the government harassed opposition party members and subjected them to arbitrary arrest. PDGE members went door-to-door, seeking out and threatening opposition supporters. PDGE party posters appeared in public places, including churches. On election day there were widespread reports of irregularities, including intimidation at the polls. Voters were discouraged from voting in secret, ballots were opened, and ruling party representatives reportedly cast their own votes as well as those of children and the deceased. There also were reports

that security forces intimidated voters with their presence in polling booths. There was a lack of observers in rural areas. Although international observers claimed that the opposition CPDS party received about 12 percent of the vote, the ruling party offered the CPDS only 2 seats in the 100-seat parliament.

The president exercised strong powers as head of state, commander of the armed forces, and founder and head of the government party, the PDGE. Impeachment of the head of state is forbidden by the constitution. Leadership positions within the government in general were restricted to the president's party or the coalition (loyal opposition). The ruling party completely dominated the elected chamber of deputies, and the minister of the interior also acted as president of the national electoral board.

Membership in the ruling party generally was a great advantage for hiring and promotion, both in the public and private sectors. Membership in a rival political organization was reportedly grounds for dismissal from any position, public or private. Opposition politicians who were not participating in the government often claimed to have been dismissed from their jobs after joining alternate political groups, but had no legal redress.

There were 12 political parties that the government called "opposition parties;" 11 have allied themselves with the PDGE. The government pointed to these opposition parties as examples of the country's multiparty democracy. Government officials routinely referred to any politicians from opposition parties deemed illegal as "terrorists." The law regarding registration of opposition parties was developed before there was a real opposition, and it prevents many groups from having a legal, peaceful means of expression. The government generally withheld access to domestic broadcasting from opposition parties and referred to the opposition negatively when broadcasting the news. The government reportedly applied pressure to persuade opposition members or officials from most, but not all, opposition parties to join the PDGE party; opposition members joining the PDGE during the year suggested that such practices persisted. Reportedly, the government bribed members of the opposition to join PDGE; if they did not, they found themselves out of work, disbarred, and their family members denied opportunities.

There were 20 women in the 100-member parliament and 5 women in the 50-member cabinet.

The prime minister is a member of the minority Bubi ethnic group. There is a very small number of minority members in parliament as well as in the cabinet (approximately 5 to 10 percent), but other than the prime minister no numbers were available.

Government Corruption and Transparency.—Official corruption in all branches of the government remained a significant problem.

In 2004 an extensive investigation by the legislature of a foreign country revealed the misappropriation of at least \$35 million (1.75 billion CFA francs) of oil revenues from foreign oil companies by President Obiang, his family, and other senior government officials through foreign bank accounts since the country started exporting oil in the mid-1990s. The report found that, in many cases, the money went directly into accounts controlled by the president and his close associates. In response to the report, the government released a report refuting the allegations of oil revenue misappropriation. The government said that the accounts were maintained to meet needs in the country, despite the name on the account, and were established so that the government would earn interest, which their funds deposited in the Central African Bank did not.

The law does not provide for access to government information, and citizens and noncitizens, including foreign media, were denied access to government information by the government, as well as by a lack of organized recordkeeping and archiving.

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

There were no domestic human rights NGOs. The law restricts NGOs and identifies specific areas in which they may operate; human rights were not among these areas.

No international human rights NGOs were resident in the country; however, there were signs of improvement in the relations between some international organizations and the government during the year. For example the government continued to allow UN International Children's Emergency Fund (UNICEF) and the UN Development Program to be active in the areas of trafficking in persons, child protection, human rights workshops, and economic development. There continued to be allegations from CRS, Reporters Without Borders, and the Center for Rural Development that NGO representatives visiting Malabo had their movements, calls, e-mails, and faxes monitored.

The government-controlled National Commission for Human Rights (CNDH) operated without adequate funding and staff. The president appointed the members of the CNDH, and the CNDH refrained from criticizing the government during the year. The Center for Human Rights, organized by the government as a quasi-independent body, received minimal support and at the end of the year lost its office space. Its role was primarily advocacy and public sensitization, not investigation or reporting of violations.

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

The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, the government did not enforce these provisions effectively. Violence and discrimination against women, trafficking in persons, discrimination against ethnic minorities, and discrimination against HIV/AIDS victims were problems.

Women.—Violence against women, including spousal abuse, is illegal, but, the government did not enforce the law effectively. The police and the judiciary were reluctant to prosecute domestic violence cases. The number of prosecutions during the year was not available. Domestic and other societal violence against women, particularly wife beating, was common. The public beating of wives is forbidden by government decree; however, violence in the home generally was tolerated. The government generally did not prosecute perpetrators of domestic violence. The government did not have a hot line, shelter, or other services for domestic violence victims.

The government did sponsor a three day national conference on women's issues, inviting women from all over the country and all ethnic groups. The topic of domestic violence and women's rights dominated the public discussions, and criticism of lack of government protection and punishment of abusers was strongly voiced. The first lady pledged to ensure that this would change, and legislation was introduced but not enacted by year's end.

Rape is illegal, but spousal rape is not specified in the law; the government did not enforce the law effectively.

Prostitution is illegal; however, the massive influx of unaccompanied foreign men in the petroleum sector contributed to increasing prostitution. During periodic crime sweeps police arrested prostitutes but released their clients—generally expatriates. Prostitutes were almost never prosecuted and were usually held only a few hours or days. Prostitutes were abused and subjected to police extortion. The bars or restaurants where they met clients were occasionally closed, but allowed to reopen after some type of fine was paid and a pledge made not to permit soliciting on the premises, which was not enforced.

Sexual harassment was not illegal; its extent was unknown.

Under the law women enjoy the same rights as men, including rights under family law, property law, and in the judicial system; however, in the Fang, Ndowne, and Bisio cultures, primogeniture was practiced. Because women become members of their husband's family upon marriage, they usually were not accorded inheritance rights. For an estimated 90 percent of women, including virtually all ethnic groups except the Bubi, tradition dictates that if a marriage is dissolved, the wife (or her father or brother) must return the dowry given to her family by the bridegroom at the time of marriage. Tradition also dictates that if a girl's family accepts a dowry from a man, she must then marry him, regardless of her wishes. If the marriage does not take place, the family is required by tradition to return the dowry, and failure to pay the debt can result in the imprisonment of the bride or a family member. The law protects women from imprisonment for not repaying the dowry following divorce; however, in practice many divorced women faced intense family pressure to repay the dowry. If a marriage dissolved, the husband also automatically received custody of all children born during the marriage, while the wife maintained custody of the children born prior to the marriage.

Polygamy, which was widespread, contributed to women's secondary status, as did limited educational opportunities. The Ministry of Women's Affairs is responsible for women's issues.

Women largely were confined by custom to traditional roles, particularly in agriculture. Women experienced economic discrimination in access to employment or credit, pay for substantially similar work, or owning or managing businesses. During the year the Ministry of Women's Affairs administered some economic empowerment programs with assistance from bilateral and international partners.

Children.—The government devoted little attention to children's rights or their welfare and had few policies in this area, although it sponsored a few seminars, media programs, and announcements on the Convention on the Rights of the Child. In 2004 the parliament passed a trafficking in persons law, focused almost exclu-

sively on trafficked children (see section 5, Trafficking); however, no other provisions for the welfare of children were legislated.

Education is compulsory through primary school, but the law was not enforced. Public schooling is provided until university level. Education is compulsory until age 14. In practice boys were expected either to complete an additional seven years of secondary school or to finish a program of vocational study following primary education. For girls pregnancy and the requirement to assist in agricultural or other work made attainment of even a primary level of education less likely. Many rural families were unable to afford school fees and book expenses for children more than 10 years of age. A UNICEF report noted that net primary school attendance from 1992 to 2002 was 60 percent for boys and 61 percent for girls; however, from 1997 to 2000, the secondary school enrollment ratio was 43 percent for boys and 19 percent for girls. Women generally had only one-fifth of the educational level of men. The government cooperated with a foreign government to provide textbooks to all schools. Teachers could be political appointees and often received no training. The national budget, passed by the parliament in September 2004, allocated increased expenditures to education, but flow of funds to projects was restricted.

Children suffered poor health and had a high mortality rate. The government provided very little health care, but boys and girls have equal access to what was offered.

Child abuse is illegal, but the government did not enforce the law effectively. Child abuse occurred.

Child prostitution existed but was rare.

Trafficking of children was a problem (see section 5, Trafficking).

Child labor occurred (see section 6.d.).

There are instances of street children living in the country. The average age was 10. They have been the targets of police sweeps in an effort to reduce trafficking in persons.

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to and from the country. The penalties for trafficking in persons for sexual exploitation or labor exploitation are imprisonment of 10 to 15 years' imprisonment and a fine of approximately \$100 thousand (at least 50 million CFA francs). The government was not active in identification and investigation of trafficking cases. The Ministry of Justice is responsible for combating trafficking in persons and the minister of justice is president of the inter-institutional commission on illegal trafficking of migrants and trafficking of persons. The government did not cooperate with other governments in the investigation and prosecution of trafficking cases.

Reliable figures on the current number of trafficking victims were not available, but anecdotal evidence indicated the numbers were small. The country was a transit point and destination for trafficked persons. Although less prevalent than external trafficking, internal trafficking was a problem. Children, mostly from Benin and Nigeria, primarily were trafficked into the agricultural and commercial sectors in Malabo and Bata. Nigerian boys worked in market stalls in Bata, often without pay or personal freedom. The country was both a destination and a transit point for trafficked girls and boys, mostly from Cameroon, Benin, and Nigeria. Women were trafficked for sexual exploitation, especially to Malabo. In June a mother of three children was arrested in Malabo while she tried to sell her three-month old infant. At year's end she had not been prosecuted.

Trafficking victims had no access to health care; they generally worked on the streets or in agriculture.

In Benin organized criminal networks were reportedly involved in trafficking of children to the country, where fishing boats were commonly employed to transport children to avoid formal entry procedures. Increasing numbers of foreign and local women were attracted to prostitution in Malabo, generally independently, because of the number of unaccompanied expatriate men working in the energy sector who tended to patronize such services.

Traffickers took advantage of the African tradition of placing children with relatives or friends in other regions or countries to advance the children's and the family's academic and economic prospects. Many parents throughout West and Central Africa were overwhelmed by the conditions of poverty and looked to the country with its new oil wealth as a good place for their children to earn money. Traffickers also preyed upon the cultural view of work as socialization and preparation for adulthood. Children usually started working in their own families' households by the age of six. Traffickers gained the confidence of parents in countries of origin by presenting themselves as successful people with the promise of improving the family's plight through apprenticeships and schooling. The traffickers were often well

known and respected in the community, and they offered families the opportunity for supplementary income.

There were no reports of senior government officials involved in trafficking activities. However, there were reports that lower-level law enforcement officials, such as border guards and immigration officers, facilitated trafficking in exchange for bribes. No known action was taken against them.

The government did not provide protection to victims and witnesses, nor were there any NGOs in the country to assist victims. There is no victim restitution program. The only identified victims thus far were repatriated, but without assurance of adequate care back in their home countries.

A government interministerial working group and UNICEF developed a national action plan early in the year that was adopted by the official Commission Against Trafficking in Persons and Illegal Immigration in the fall, but the government had not approved the national action plan by year's end. During the year the government conducted a radio campaign and workshops to raise awareness of the new law against trafficking.

Persons with Disabilities.—The law does not provide protection for persons with disabilities from discrimination in employment, education, or the provision of other state services, and while there was no formal evidence of discrimination against persons with disabilities, educational services for the mentally and/or physically handicapped are minimal. They were usually provided by churches or NGOs when available. The law does not mandate access for persons with disabilities to buildings, and there was societal discrimination against persons with disabilities.

National/Racial/Ethnic Minorities.—Discrimination against ethnic or racial minorities was not legal, and the government did not overtly limit the participation of minorities in politics; however, the near monopolization of political and economic power by the Fang ethnic group persisted (see section 3). Differences among subclans of the Fang, especially resentment of the political dominance of the Mongomo subclan, were also sources of political tensions. In practice some members of ethnic minorities, particularly the Bubi ethnic group, faced discrimination, especially when they were not members of the dominant party. Tensions also arose because the dominant group controlled most property, which afforded it greater access to economic prosperity and prevented competition from minorities from developing. Minorities felt discriminated against in regard to appropriation of property for public works, ability to obtain loans, compete for scholarships, and obtain and keep jobs, although they attributed this condition as much to assumed party affiliation as to ethnic background.

Several thousand citizens of Nigeria, Ghana, and Francophone Africa continued to reside in the country, even after the deportations of numerous foreigners in March 2004 (see section 1.c.). Most were small traders and business persons. The police reportedly continued to harass and extort money from them.

Citizens arbitrarily detained foreigners during the year, reportedly as a result of xenophobia (see section 1.d.).

Other Societal Abuses and Discrimination.—Societal discrimination against homosexuals occurred.

Persons with HIV/AIDS continued to be victims of societal discrimination and often kept their illnesses hidden. However, during the latter part of the year, the government and the World Health Organization cosponsored public awareness and sensitization campaigns on HIV/AIDS.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and to join unions of their choice without previous authorization or excessive requirements; however, the Small Farmers Syndicate was the country's only legally recognized labor union. According to the International Confederation of Free Trade Unions, authorities have consistently refused to register the Equatorial Guinea Trade Union, which has been forced to carry out its activities in secret. The law stipulates that a union must have at least 50 members who are from a specific workplace and located in the same geographic area to register; this rule effectively blocked union formation. Authorities refused to legalize the public sector union, the Independent Syndicated Services, despite it having met the requirements of the law.

During the year, the country's major private employer, the oil industry, which was dominated by foreign firms, continued to take steps to reduce government control of hiring in the industry. To eliminate political bias in the hiring process, companies employed methods ranging from public advertising of jobs and objective testing to screening of applicants by noncitizens only. According to regional representatives of the International Labor Organization, these efforts largely have been ineffective,

and the government continued to influence employment in all sectors. Requirements to utilize employment and security agencies controlled largely by presidential relatives continued.

There was no law prohibiting antiunion discrimination, and during the year there were reports that when workers tried to form unions, the police visited their homes and threatened them.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, but the government did not protect this right in practice. The government placed practical obstacles before groups wishing to organize. The government and employers set wages with little or no participation by workers. There was no evidence of collective bargaining by any group; however, the labor ministry sometimes mediated labor disputes. It met with oil companies to reconcile a language dispute over minimum wages and facilitated an agreement.

The law provides for the right to strike; however, workers were effectively prohibited from striking. On rare occasions workers engaged in temporary protests or “go slows” (work slowdowns and planned absences). The law contains provisions to uphold worker rights, but the government generally did not enforce them. Apart from the labor ministry, workers had few other places to seek redress. Members of parliament reportedly tried to mediate employer-worker disputes over wages or dismissals; however, they had no legal authority to do so.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law forbids forced or compulsory labor and slavery; however, detainees and convicted felons reportedly performed extensive labor outside prison, including for prison officials, without compensation (see section 1.c.).

In 2004 the government enforced for the first time existing laws on forced labor and convicted a Beninois woman for holding a Beninois girl of 14 as an indentured servant. The woman was ordered to pay back wages and fined; she was sentenced to serve a prison term.

The law prohibits forced or compulsory labor by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—There are no comprehensive laws or policies to protect children from exploitation in the workplace, and the government did not effectively implement the few that there are. The legal minimum age for employment is 14 years, but the Ministry of Labor did not enforce this law, and child labor was common particularly on family farms and businesses. In June the government issued a decree relating to child labor, forbidding the employment of children in street vending, car-washing, and selling or attending in bars and restaurants, but this law was rarely and only periodically enforced. According to a 2001 child labor study by UNICEF, the most recent information available, child labor existed primarily in the form of children working as farmhands and market vendors in family businesses. In addition during the year there were unconfirmed reports that foreign children were used as market vendors by nonrelatives and had no access to schooling. While the Ministry of Labor was responsible for the enforcement of labor legislation, it did not enforce the legislation effectively.

e. Acceptable Conditions of Work.—Employers must pay the minimum wages set by the government, and most companies paid more than the government-established minimum wage. The national minimum wage did not provide a decent standard of living for a worker and family. By law hydrocarbon industry workers received salaries many times higher than those in other sectors, which fueled inflation and disadvantaged those who could not fairly compete for those jobs. The Ministry of Labor is responsible for enforcing the minimum wage.

The law prescribes a standard 35-hour workweek and a 48-hour rest period, which generally were observed in practice in the formal economy. Exceptions were made for particular jobs, such as those concerning offshore oil industry work. Premium pay for overtime is required, but the requirement was not effectively enforced.

The law provides for comprehensive protection for workers from occupational hazards; however, the government did not enforce this in practice. The government had an insufficient number of labor inspectors to oversee local industry. The government continued training more inspectors during the year. The law does not provide workers with the right to remove themselves from situations that endangered health or safety without jeopardizing their continued employment.

Although payment into the social security system is mandatory, it is rare to hear of workers who received health care, worker's compensation, or retirement benefits from this system after contributing. Employment agencies that were supposed to

pass on payments for social security benefits of workers were notorious for going out of business without meeting their obligations.

ERITREA

Eritrea, with a population of approximately 4.4 million, is a one-party state that became independent in 1993 when citizens voted for independence from Ethiopia. The People's Front for Democracy and Justice (PFDJ), previously known as the Eritrean People's Liberation Front, is the sole political party and has controlled the country since 1991. The country's president, Isaias Afwerki, is also the leader of the PFDJ. The government continuously postponed presidential and legislative elections. An unresolved border dispute with Ethiopia seriously hindered international trade and affected the government's external relations. The civilian authorities generally maintained effective control of the security forces.

The government's human rights record worsened, and it continued to commit numerous serious abuses. Tensions increased over the border impasse with Ethiopia, and the government increased its roundups of young men and women for national service and imposed additional travel restrictions on diplomats, humanitarian and development agencies, and UN Mission to Eritrea and Ethiopia (UNMEE). The following human rights problems were reported:

- the inability of citizens to change their government
- unlawful killings by security forces, including some resulting from torture
- numerous reports of torture and physical beatings of prisoners, particularly draft evaders
- poor prison conditions for detainees
- prohibition on prison visits by local or international groups, except in limited cases the International Committee of the Red Cross (ICRC)
- arbitrary arrests and detentions, including an unknown number of political detainees
- executive interference in the judiciary and the use of a special court system to limit due process
- infringements on privacy rights
- severe restrictions on freedom of speech and press
- restrictions on freedom of assembly and association
- interference with freedom of religion for religious groups not approved by the government
- restrictions on freedom of movement, both within the country and departing the country
- limits on the activities of nongovernmental organizations (NGOs)
- violence and societal discrimination against women and the widespread practice of female genital mutilation (FGM)
- societal discrimination against members of the Kunama ethnic group and homosexuals
- restrictions on workers' rights

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, the government continued to authorize the use of deadly force against anyone resisting or attempting to flee during military searches for deserters and draft evaders, and deaths reportedly occurred during the year. Several persons detained for evading national service died after harsh treatment by security forces (see section 1.c.). There were also reports that numerous members of unregistered churches died following abuse by security forces (see section 2.c.).

The London-based NGO Eritreans for Human and Democratic Rights reported that on June 10 military personnel shot and killed 161 youth at Wia Military Camp who were trying to escape.

No action was taken during the year against the guards who killed draft evaders trying to escape from a collapsing detention center in November 2004.

According to the Government Commission for Coordination with the UN Peacekeeping Mission, there were an estimated 3 million landmines and unexploded ordnance in the country left over from the country's 30-year war of independence and the 1998–2000 conflict with Ethiopia. The Eritrean Islamic Jihad Movement and others laid some new mines during the year. The UN reported 11 deaths and 46 injuries from landmine incidents during the year; at least 3 of these casualties involved newly laid landmines. It was probable that there were additional, unreported deaths in remote areas. The government halted its demining program in April. The UN demining programs continued throughout the year, although their effectiveness was limited by a government order in October grounding all UN helicopters. As a result UNMEE transferred most of the demining activities to Ethiopia. The air restrictions also constrained UNMEE's ability to supply troops in the field, monitor the Temporary Security Zone area, and support medical evacuations.

There was no additional information during the year regarding the 2003 killing of British national Timothy Butt in the western Bisha region or the 2003 killing of two citizens who worked for Mercy Corps International.

b. Disappearance.—There were no reports of politically motivated disappearances during the year; however, there were unresolved disappearances from previous years.

At year's end the whereabouts of an unknown number of Kunama, members of an ethnic group residing predominantly near the border with Ethiopia and detained because of their association with other captured or killed Kunama insurgents, remained unknown.

At year's end the whereabouts of 11 senior PFDJ and National Assembly members, arrested by the government in 2001, remained unknown.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits torture; however, there were numerous reports that security forces resorted to torture and physical beatings of prisoners, particularly during interrogations. During the year security forces severely mistreated and beat army deserters, draft evaders, and members of particular religious groups (see section 2.c.). Security forces subjected deserters and draft evaders to various disciplinary actions that included prolonged sun exposure in temperatures of up to 120 degrees Fahrenheit or the binding of the hands, elbows, and feet for extended periods.

There were reliable reports that torture was widespread in an unknown number of detention facilities. In addition to psychological abuse, escapees reported the use of physical torture at a few prisons. Authorities suspended prisoners from trees with their arms tied behind their backs, a technique known as "almaz" (diamond). Authorities also placed prisoners face down with their hands tied to their feet, a torture technique known as the "helicopter."

There were reports that some women drafted to the national service were subjected to sexual harassment and abuse. There were unconfirmed reports that instructors raped young girls at Sawa Military Camp.

Prison and Detention Center Conditions.—Prison conditions for the general prison population were poor. There were reports that prisoners were held in shipping containers with little or no ventilation in extreme temperatures. At Aderser, near Sawa, there were reports that prisoners were held in underground cells.

There were substantial reports that prison conditions for persons temporarily held for evading military service were also poor. Unconfirmed reports suggested there may be hundreds of such detainees. Draft evaders were typically held for 1 to 12 weeks before being reassigned to their units. At one detention facility outside Asmara, detainees reportedly were held in an underground hall with no access to light or ventilation, and in sometimes very crowded conditions. Some detainees reportedly suffered from severe mental and physical stress due to these conditions.

Several persons detained for evading national service died after harsh treatment by security forces, including the binding of hands and feet behind the head. In addition several detainees who suffered from ill health in prison died within days of their release from lack of medical care.

There were no juvenile detention centers or correction facilities, and juvenile offenders often were incarcerated with adults. Pretrial detainees generally were not held separately from convicted prisoners; however, in some cases, detainees were held separately. For example, 11 PFDJ and national assembly detainees and others detained on national security grounds in 2001 were believed to be held separately, although their whereabouts remained unknown. These political detainees continued to be denied visitors during the year.

Local groups and human rights organizations were not allowed to monitor prison conditions. The government prohibited the ICRC from visiting the unknown number of Ethiopian soldiers who the government claimed were deserters from the Ethio-

pian army or to visit any Eritrean detainees or prisoners, although the ICRC was allowed to visit and register Ethiopian civilian detainees in police stations and prisons. Authorities generally permitted three visits per week by family members, except for detainees arrested for reasons of national security or for evading national service.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, arbitrary arrest and detention were serious problems.

Role of the Police and Security Apparatus.—Police are officially responsible for maintaining internal security, and the army is responsible for external security; however, the government can call on the armed forces, the reserves, and demobilized soldiers in response to both domestic and external security requirements. For example, agents of the National Security Office, which reports to the Office of the President, are responsible for detaining persons suspected of threatening national security.

Active duty police officers are in charge of key police divisions. The police force was adequate in enforcing traffic laws and combating petty crime. Generally the police did not have a role in cases involving national security, but beginning in the fall, the police became involved in the rounding up of individuals evading national service. The military has the power to arrest and detain persons, and internal security forces and the military detained many persons during the year.

Corruption was not prevalent. There were no mechanisms to address allegations of abuse among the police, internal security, or military forces.

Arrest and Detention.—The law stipulates that detainees may be held for a maximum of 30 days without being charged with a crime. In practice, authorities often detained persons suspected of crimes for much longer periods, usually without warrants. Authorities often did not promptly inform detainees of the charges against them. Often detainees did not have access to legal counsel (see section 1.e.) or appear before a judge, and incommunicado detention was widespread. There was a functioning bail system for all cases, except those involving national security or for which capital punishment might be handed down.

Security forces detained, generally for less than three days, many persons during searches for evaders of national service even if they had valid papers showing that they had completed or were exempt from national service (see section 1.c.). Beginning in June, security forces began detaining and arresting parents of individuals who had evaded national service duties or fled the country (see section 1.f.).

On March 30, the government arrested three union leaders. They remained in police custody without charge or access to a lawyer at year's end.

There were reports of up to several hundred politically motivated detentions of those who were seen as critical of the government, and many of those detained remained in prison at year's end. Many were perceived to have ties to political dissidents or were believed to have spoken against government actions. Most of these detainees had not been tried and did not have access to legal counsel. The ICRC was not authorized to visit these detainees.

There were no developments in the 2002 arrests of individuals associated with the detained group of 11 PFDJ/national assembly members and of diplomats who were recalled from their posts. At least four of these detainees, in addition to many detained in previous years, remained in prison without charges at year's end. Among the detainees were former Ambassador to China Ermias Debessai (Papayo) and Aster Yohannes, wife of former Foreign Minister Petros Solomon.

Two citizens who worked for a foreign embassy have remained in detention without charge since 2001.

The government continued to detain journalists it took into custody in 2001 (see section 2.a.).

The government continued to arrest and detain members of nonregistered religious groups, some of whom have been detained for more than 11 years (see section 2.c.).

Ethiopian nationals reportedly were singled out for arrest because they were unable to pay the necessary fees to renew their residency permits every six months.

In May the government reportedly freed approximately 110 citizens who had been deported from Libya in July 2004 and imprisoned and held without charge. Also in May the government reportedly released citizens who were deported from Malta in 2002. Approximately 220 persons had been deported from Malta, but an unknown number died in detention or reportedly were killed while trying to escape since their incarceration in 2002.

There were reports that the government continued to hold without charge numerous members of the Eritrean Liberation Front, an armed opposition group that fought against Ethiopia during the struggle for independence.

The government held numerous pretrial detainees during the year; however, there were widespread reports that the government released an unknown number of detainees held without charge during the year. An unknown number of persons suspected of antigovernment speech, association with the 11 former PFDJ members arrested in 2001, Islamic elements considered radical, or suspected terrorist organizations continued to remain in detention without charge, some of whom have been detained for more than 10 years. These detainees reportedly did not have access to legal counsel and were not brought before a judge.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the judiciary was weak and subject to executive control. Public trials generally were perceived as fair, but virtually all cases involving individuals detained for national security or political reasons were not brought to trial. The drafting into national service of many civilians, including court administrators, defendants, judges, lawyers, and others involved in the legal system, continued to have a significant negative impact on the judiciary.

The judicial system had two parts: civilian and special courts. The civilian court system consisted of community courts, regional courts, and the High Court, which also served as an appellate court. Appeals could be made in the civilian courts up to the High Court. The High Court took an average of 2 months to decide if it would hear an appeal, and at year's end had a backlog of approximately 200 cases. Minor infractions involving sums of less than approximately \$7,300 (100 thousand nakfa) are brought to community courts. More serious offenses are argued before regional courts, but a significant proportion of cases involving murder, rape, and other felonies are heard by the High Court. A single judge hears all cases, except those argued before the High Court, where panels of three judges hear cases. A panel of five judges hear cases in which the High Court serves as the court of final appeal.

The executive-controlled Special Court issues directives to other courts regarding administrative matters, although their domain was supposed to be restricted to criminal cases involving capital offenses, theft, embezzlement, and corruption. The Office of the Attorney General decides which cases are to be tried by a special court. No lawyers practice in the special courts. The judges serve as the prosecutors and may request that individuals involved in the cases present their positions. The special courts, which do not permit defense counsel or the right of appeal, allowed the executive branch to mete out punishment without respect for due process.

The judges in the special court in both branches are senior military officers, with no formal legal training. They generally based their decisions on "conscience," without reference to the law. There is no limitation on punishment, although the special courts did not hand down capital punishment sentences during the year. The attorney general also allowed special courts to retry civilian court cases, including those decided by the High Court, thereby subjecting defendants to double jeopardy. Reportedly in rare instances, appeals made to the Office of the President resulted in special courts rehearing certain cases.

Trial Procedures.—The judicial system suffered from a lack of trained personnel, inadequate funding, and poor infrastructure that in practice limited the government's ability to grant accused persons a speedy and fair trial.

Unlike the special court system, the law provides specific rights to defendants in the regular court system. Although defendants could hire a legal representative at their own expense, most detainees could not afford to do so and consequently did not have access to legal counsel. The government frequently assigned attorneys to represent defendants accused of serious crimes punishable by more than 10 years in prison and who could not afford legal counsel. Defendants have the right to confront and question witnesses, present evidence, have access to government held evidence, appeal a decision, and have presumption of innocence; it was unknown how well these rights were enforced in practice.

Most citizens only had contact with the legal system through the traditional village courts. Elected village judges heard civil cases, while magistrates versed in criminal law heard criminal cases. Village courts and local elders used customary law to adjudicate local problems such as property disputes and petty crimes. The Ministry of Justice offered training in alternative dispute resolution to handle some civil and criminal cases.

Shari'a law could be applied when both litigants in civil cases were Muslims. Traditional courts cannot impose sentences involving physical punishment.

Political Prisoners.—There were no reports of political prisoners; however, there were numerous reports of persons detained for political reasons (see section 1.d.).

Property Restitution.—The government failed to compensate foreigners for property taken by preindependence governments or to restore the property to them.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, the government at times infringed on the right to privacy.

The government deployed military and police throughout the country using road-blocks, street sweeps, and house-to-house searches to find deserters and draft evaders as well as parents of deserters and draft evaders. There were reports that security forces targeted gatherings of unregistered religious groups.

The government monitored mail, e-mail, and telephone calls without obtaining warrants as required under the law. Government informers were believed to be present throughout the country.

There were reports that military officials seized residences belonging to relatives of persons identified with the political opposition and rented the property or used it as housing for senior military officers' families.

Beginning in June, security forces began detaining and arresting parents of individuals who had evaded national service duties or fled the country. They required the parents to pay a fine and bring their children back before they would release them. These arrests and detentions continued through year's end.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government severely restricted these rights in practice. Citizens did not have the right to criticize their government in public or in private. The private press remained banned, and most independent journalists remained in detention or had fled the country, which effectively prevented all public criticism of the government.

The government controlled all media, including three newspapers, two magazines, one radio station, and one television station. There was no private media in the country, the law does not allow private ownership of broadcast media or foreign influence or ownership of media, and the government also banned the import of foreign publications. The government had to approve publications distributed by religious or international organizations before their release, and the government continued to restrict the right of the religious media to comment on politics or government policies. The press law forbids reprinting of articles from banned publications.

The government permitted three reporters from foreign news organizations to operate in the country. In November the Swedish reporter, who was held by the government for nearly four years, was released for medical treatment and then was detained again a few days later; he remained in detention without charge at year's end.

Contrary to what was reported in 2004, authorities did not at any time arrest Goitom Biahon, a journalist who submits reports to *Deutsche Welle*.

At least 15 local journalists who were arrested in 2001 remained in government custody at year's end. The four Oromo journalists, who came to the country initially at the invitation of the government to seek refuge from Ethiopia, spent two months in UN High Commissioner for Refugees (UNHCR) protection in the fall. They have an agreement with a foreign country to be repatriated; however, the government refused to issue them exit visas.

There were no government restrictions on the Internet.

The government restricted academic freedom; freedom of speech, movement of students, and their ability to assemble were not respected in the academic context. The status of the University of Asmara, the only institution of higher education, was uncertain, because for the last three years prospective students were diverted to the Mai Nafhi Technical Institute and did not continue to the university (see section 5). Students at Mai Nafhi Technical Institute were not allowed to choose what subjects they studied. The government did not provide exit visas to students who wanted to study abroad.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association; however, the government did not permit freedom of assembly or association. The government did not allow the formation of any political parties other than the PFDJ.

c. Freedom of Religion.—The law provides for freedom of religion; however, the government restricted this right in practice. Only four religious groups whose registrations had been approved by the government were allowed to meet legally during the year. These were: Orthodox Christians, Muslims, Catholics, and members of the Evangelical Church of Eritrea (an umbrella group of several Protestant churches affiliated with the Lutheran World Federation). Members of the nonregistered churches continued to be arbitrarily arrested throughout the year.

During the year there continued to be reports that security forces used extreme physical abuse such as bondage, heat exposure, and beatings to punish those de-

tained for their religious beliefs, and that numerous detainees were required to sign statements repudiating their faith or agreeing not to practice it as a condition for release. There also continued to be reports that relatives were asked to sign for detainees who refused to sign such documents.

During the year there were reports that several dozen followers of various unregistered churches (mostly Protestant) were detained, harassed, and abused. For example, there were credible reports that 19 members of unregistered churches died in June at the Wia military camp after authorities bound them by the hands and feet and left them outside in extremely hot conditions.

In February the government shut down and arrested the organizers of a Sunday school organized by an Orthodox church group known as Medhane Alem, a group whose religious services the government did not approve. At year's end the three organizers remained in jail. The three ministers who led the Medhane Alem group and who were arrested in October 2004 remained imprisoned without charge at year's end.

On May 28, authorities arrested over 200 members of unregistered churches at a wedding party in Asmara. Authorities reportedly detained several minors from that event for up to two days. Apparently 11 were still being detained at year's end.

In September the government reportedly detained 20 members of the Hallelujah and Philadelphia churches for organizing a wedding party in Asmara; they were released 1 month later.

In January the government released 47 of the 60 Rema Church members who had been arrested in December 2004 during a home prayer meeting. The remaining 13 persons were reportedly still being detained on grounds of evading national service at year's end.

Opposition websites reported in October that the government detained nearly 200 members of evangelical churches.

There were no known developments relating to the March 2004 arrest of 20 members of the Kalehiwot Church or the May 2004 arrest of the leaders of the Eritrean Evangelical Alliance, the Full Gospel Church, and the Rhema Church.

It was unknown whether the government had released the 57 students arrested in 2003.

There were credible reports that, at the government's direction, the functions of the Patriarch of the Orthodox Church were reduced to a ceremonial role and his administrative responsibilities were transferred to an administrator who is neither a member of the clergy nor an appointee of the Patriarch as required by the constitution of the Eritrean Orthodox Church. The Patriarch reportedly was put under house arrest. This effectively put the government in control of the Orthodox Church. The government also harassed and monitored members of one Orthodox church whose religious services it did not approve.

There were some complaints that the government discriminated against the Muslim community and Catholics because the government offered tax relief to Orthodox churches but not to some mosques and Catholic churches.

The government prohibited political activity by religious groups and faith-based NGOs. The government's Office of Religious Affairs monitored religious compliance with this proscription.

The government does not excuse individuals who object to national service for religious reasons or reasons of conscience, nor does the government allow for alternative service. The government continued to harass, detain, and discriminate against the small community of members of Jehovah's Witnesses because of their refusal, on religious grounds, to vote in the independence referendum or the refusal of some to perform national service. Although members of several religious groups, including Muslims, reportedly have been imprisoned in past years for failure to participate in national military service, the government singled out Jehovah's Witnesses for harsher treatment than that received by followers of other faiths for similar actions. The government dismissed members of Jehovah's Witnesses from the civil service. Many were evicted from or not allowed to occupy government-owned housing. Members of Jehovah's Witnesses frequently were denied passports and exit visas, and some had their identity cards revoked or were not issued them at all.

At year's end approximately 15 of the 40 Jehovah's Witnesses arrested during a home prayer meeting in January 2004 remained incarcerated.

According to the Office of General Counsel for the Jehovah's Witnesses, up to 22 Jehovah's Witnesses remained imprisoned without charge, including 3 allegedly detained during the year for failing to participate in national service. Although the maximum penalty for refusing to perform national service is 3 years' imprisonment, 3 of the individuals have been detained for more than 11 years. Of the members of Jehovah's Witnesses detained, 10 were reportedly held at Sawa Military camp and 1 in prison in Asmara.

The army resorted to various forms of extreme physical punishment to force objectors, including some members of Jehovah's Witnesses, to perform their military service (see section 1.c.).

Societal Abuses and Discrimination.—There were negative societal attitudes toward members of some religious denominations other than the four sanctioned ones. Some citizens approved of the strict measures levied against unsanctioned churches, especially the Pentecostal groups and Jehovah's Witnesses during the year.

There was a very small Jewish population in the country; there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, the government restricted some of them in practice. While citizens could generally travel freely within the country and change their place of residence, the government restricted travel to some areas within the country particularly along the border with Sudan and Ethiopia. Military police periodically set up roadblocks in Asmara and on roads between other cities to find draft evaders and deserters (see section 1.d.). The government tightened restrictions on travel permits for diplomats; however, they continued to issue travel permits to most NGOs, tourists, and journalists.

There were reports that Ethiopians who remained in the country were not allowed to live in the Dehub Province bordering Ethiopia.

Citizens and foreign nationals were required to obtain an exit visa to depart the country. There were numerous cases where foreign nationals were delayed in leaving for up to two months or initially denied permission to leave when they applied for an exit visa. Men under the age of 50, regardless of whether they had completed national service; women ages 18 to 27; members of Jehovah's Witnesses (see section 2.c.); and others who were out of favor with or seen as critical of the government were routinely denied exit visas. In addition, the government often refused to issue exit visas to adolescents and children as young as 5 years of age, either on the grounds that they were approaching the age of eligibility for national service or because their diasporal parents had not paid the 2 percent income tax required of all citizens residing abroad. Some citizens were given exit visas only after posting bonds of approximately \$7,300 (100 thousand nakfa).

The law has no provisions concerning exile, and the government generally did not use exile.

In general citizens had the right to return; however, citizens had to show proof that they paid the 2 percent tax on their income to the government while living abroad to be eligible for some government services, including exit visas, upon their return to the country. Applications to return from citizens living abroad who had broken the law, contracted a serious contagious disease, or had been declared ineligible for political asylum by other governments were considered on a case-by-case basis.

During the year, in conjunction with the ICRC, the government repatriated approximately 979 Ethiopians to Ethiopia.

Internally Displaced Persons (IDPs).—Approximately 20 thousand IDPs from the conflict with Ethiopia were permanently resettled during the year. Approximately 51 thousand IDPs remained in 7 camps in the Dehub and Gash Barka zones at year's end. Camp facilities were rudimentary, but conditions generally were adequate. There also was a large but unknown number of IDPs residing outside camps during the year. The government allowed UN organizations to provide assistance to IDPs. In late May the government seized approximately 45 UNHCR vehicles, which seriously impacted their ability to monitor programs and provide follow-up. The vehicles were not returned by year's end.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the definition in the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. As a result the government cannot issue legal refugee or asylum status. However, in practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution and provided temporary protection to approximately four thousand persons from Sudan and Somalia on a *prima facie* basis. The government granted 19 Ethiopians who deserted the Ethiopian army, residency status. Another 1,400 Ethiopians sought asylum with the UNHCR, but the government refused to issue them exit visas. Approximately 16 thousand Ethiopian had temporary residence in the country. The government cooperated with the office of the UNHCR in assisting refugees who were not from Ethiopia.

There were 770 Sudanese refugees at Elit camp in the West and 3,500 Somali refugees at Emkulu camp, near Massawa. There were also up to 30 thousand Beja Sudanese and approximately 600 Ethiopians in the Gash Barka region to which the UNHCR had no access or responsibility. The UNHCR was accommodating 1,100 Ethiopians in urban areas, an increase from only 5 cases in 2002. The government issued residency permits to Ethiopians living in the country for a fee; however, it did not issue them exit visas.

The UNHCR reported that although it ended organized repatriation of refugees from Sudan on December 31, 2004, 18 refugees returned to the country spontaneously during the year.

There were reports during the year that the government refused to allow the UNHCR to resettle several ethnic Oromo journalists from Ethiopia (see section 2.a.).

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; however, citizens were not allowed to exercise this right.

Elections and Political Participation.—The government came to power in a 1993 popular referendum in which voters chose to have an independent country managed by a transitional government run by the PFDJ. The PFDJ has not allowed for a democratically elected government, and national elections, originally scheduled for 1997, were never held. The only authorized political party is the PFDJ.

There were 3 women on PFDJ's 19-member Executive Council, and 11 women served on the 75-member Central Council. Women participated in the constitutional commission, occupying almost half of the positions on the 50-person committee. They also served in several senior government positions, including the ministers of justice, tourism, and labor and welfare.

There was no information on whether members of ethnic minorities were on PFDJ's 19-member Executive Council, served on the 75-member Central Council, or participated in the constitutional commission.

Government Corruption and Transparency.—There were reports of petty corruption within the executive branch, largely based on family connections. There were unconfirmed reports of more serious corruption among military leaders involving illicit trade and the appropriation of houses.

Although the law provides for public access to government information, the government did not provide information to persons who submitted requests.

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

The government allowed one domestic human rights NGO—Citizens for Peace in Eritrea (CPE)—to operate, and its work was limited to advocacy on behalf of war victims. Government officials were cooperative and responsive to CPE's views on these issues.

The government did not permit international human rights organizations to operate within the country.

All NGOs, regardless of their scope of work, were required to register with the Ministry of Labor and Human Welfare. In May the government issued a law that requires all NGOs to register with the government for permission to continue operations in the country. It also requires international NGOs to have \$2 million (in US currency) in the local bank. Many NGOs were unable to register under the new law and were required to leave the country. As of year's end there were 16 registered NGOs.

During the year the government ordered a foreign government's aid agency to stop operating in the country.

The government allowed the ICRC to operate. During the year the ICRC provided shelter to approximately one thousand persons who were displaced by the conflict with Ethiopia (see section 2.d.). The ICRC also visited prisons and detention centers where Ethiopians were held (see section 1.c.) and provided assistance to approximately 50 thousand citizens through projects in water supply, health structure rehabilitation, and housing.

The government cooperated with the UNMEE's Office for Human Rights.

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

The law prohibits discrimination against women and persons with disabilities, and while the government generally enforced these provisions, violence against women and discrimination against minority ethnic groups continued.

Women.—Violence against women was pervasive. Domestic violence is a crime; however, domestic violence, especially wife beating, was widespread. Women seldom

openly discussed domestic violence because of societal pressures. Although the law prohibits domestic violence, the government did not effectively enforce the law. Such incidents were more commonly addressed, if at all, within families or by religious clergy. The government's response to domestic violence was hindered by a lack of training, inadequate funding, and societal attitudes.

Rape is a crime; however, it was unclear whether spousal rape is illegal. There was no specific information available on the prevalence of rape in the country. The government responded to reports of rape by encouraging the perpetrator to marry the victim.

FGM was widespread, with some estimates as high as 89 percent frequency among girls. Almost all ethnic and religious groups in the country practiced FGM. In the lowlands, infibulation—the most severe form of FGM—was practiced. There is no law prohibiting FGM; however, the government worked to combat the practice. The government and other organizations, including the National Union of Eritrean Women and the National Union of Eritrean Youth and Students, sponsored education programs that discouraged the practice.

Prostitution is illegal but was a serious problem. Security forces, who regularly patrolled the city at night, occasionally followed prostitutes and arrested those who had spent the night with a foreigner.

Laws exist prohibiting sexual harassment; however, cultural norms prevented women from reporting these types of incidents, and no one was charged or prosecuted for sexual harassment.

Women have a legal right to equal educational opportunities, equal pay for equal work, and equal property rights; however, in practice men retained privileged access to education, employment, and control of economic resources, with greater disparities in rural areas than in cities. Women generally did not enjoy a social status equal to men.

The law requires that women ages 18 to 27 participate in national service (see section 6.c.). During the year the government continued efforts to detain women draft evaders and deserters. According to reports some women drafted for national service were subject to sexual harassment and abuse.

Children.—Although the government was generally committed to children's rights and welfare, its programs were limited by resource constraints. The Ministry of Labor and Human Welfare is responsible for policies concerning children rights and welfare. The Children's Affairs Division in the Ministry of Labor and Human Welfare covered childcare, counseling, and probation.

Education through grade seven is compulsory and tuition-free; however, students were responsible for uniforms, supplies, and transportation, which was prohibitively expensive for many families. Education above grade seven requires a nominal fee and is not compulsory. There was a shortage of schools and teachers at all levels, remedied in part by holding morning and afternoon shifts at schools. According to Ministry of Education estimates, the net enrollment rate of school-age children in the 2001–02 school year was approximately 38 percent. Approximately 75 percent of the population was illiterate. In rural areas young girls usually left school early to work at home.

The government required that all students attend their final year of secondary school at a location adjacent to the Sawa military training facility in the western section of the country. Students who do not attend this final year do not graduate and cannot sit for examinations to be eligible for advanced education. The remote location of this boarding school, security concerns, and societal attitudes resulted in few girl students enrolling for their final year; however, women may earn an alternative secondary school certificate by attending night school after completing national service.

The government operated Mai Nafhi Technical Institute on the outskirts of Asmara. Students from the Sawa School who scored well on the university exams were admitted to Mai Nafhi and then could be eligible to attend the University of Asmara. Mai Nafhi offered a wide variety of classes, ranging from the sciences to business and technology. No new students were accepted at the University of Asmara in the last three years.

Although the government did not provide medical care for children, it operated an extensive vaccination program.

There are no laws against child abuse, and child abuse was not common.

FGM was performed on an estimated 89 percent of young girls (see section 5, women).

The minimum age for marriage for both men and women is 18, although religious entities may bless marriages at younger ages. UN Children's Fund reported that in the west and in coastal areas child marriage occurred. Within the Tigrinya and Tigre ethnic groups underage marriage was relatively rare.

The law criminalizes child prostitution, pornography, and sexual exploitation; however, some children were involved in prostitution. The government had an aggressive program to identify these children and reintegrate them into their families and society.

Trafficking in Persons.—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, or in the provision of other state services, and there were no reports of discrimination in practice. The government dedicated substantial resources to support and train the thousands of men and women with physical disabilities that resulted from the war for independence and the conflict with Ethiopia. There are no laws mandating access for persons with disabilities to public thoroughfares or public or private buildings, but many newly constructed buildings provided such access.

National/Racial/Ethnic Minorities.—There were reports of government and societal discrimination against the Kunama, one of nine ethnic groups residing primarily in the west. Members of the Kunama ethnic group remained in detention without charges during the year (see section 1.b.).

During the year abuse of Ethiopians by individuals was not systematic, and there were fewer cases than in previous years.

Other Societal Abuses and Discrimination.—Homosexuals faced severe societal discrimination, and there were reports that the government expelled several expatriates in 2004 due to their sexual orientation.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers with the legal right to form unions to protect their interests; however, some government policies restricted free association or prevented the formation of unions, including within the civil service, military, police, and other essential services. The Ministry of Labor and Human Welfare must grant special approval for groups of 20 or more persons seeking to form a union. There were no reports that the government opposed the formation of labor associations during the year; however, the government did not approve the formation of any unions. All unions, including the Teacher's Union, Women's Union, Youth's Union, and Worker's Union, were run by the government. Usually the leaders are government employees and any activity is government sanctioned.

On March 30, the government arrested three trade union activists. At year's end they were being held incommunicado, reportedly, in a secret detention center controlled by security forces.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. Collective bargain is protected under the law, however, no agreements existed. The law allows strikes; however, workers did not exercise this right in practice. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were unconfirmed reports that it occurred during the year. The government required all men between the ages of 18 and 45 and women between the ages of 18 and 27, to participate in the national service program, which included military training and civilian work programs. In addition some national service members were assigned to return to their civilian jobs while nominally kept in the military, because their skills were deemed critical to the functioning of the government or the economy. These individuals continued to receive only their national service salary. The government required them to forfeit to the government any money they earned above and beyond that salary. Government employees generally were unable to leave their jobs or take new employment. Draft evaders often were used as laborers on government development projects.

d. Prohibition of Child Labor and Minimum Age for Employment.—Although the government has a national plan of action to protect children from exploitation in the workplace, it was not enforced effectively, and child labor occurred. The legal minimum age for employment is 18 years, although apprentices may be hired at age 14. The law bars children, young workers, and apprentices under age 18 from performing certain dangerous or unhealthy labor, including working in transport industries, working in jobs involving toxic chemicals or dangerous machines, and working underground such as in mines and sewers. It was common for rural children who did not attend school to work on family farms, fetching firewood and water and

herding livestock, among other activities. In urban areas, some children worked as street vendors of cigarettes, newspapers, or chewing gum.

Labor inspectors from the Ministry of Labor and Human Welfare are responsible for enforcing child labor laws, but inspections were infrequent.

e. Acceptable Conditions of Work.—The minimum wage in the civil service sector of \$24 (325 nakfa) per month did not provide a decent standard of living for a worker and family. Most people in national service and the service industry made even less than the minimum wage. The government did not enforce the minimum wage law. There is no legally mandated minimum wage in the private sector.

The standard workweek is 44½ hours, but many persons worked fewer hours. Workers are entitled to one rest day per week; most workers were allowed 1 to 1½ days off per week. There are no prohibitions against excessive overtime. The government has instituted occupational health and safety standards, but inspection and enforcement varied widely among factories. In practice some workers were permitted to remove themselves from dangerous work sites without retaliation.

ETHIOPIA

Ethiopia continued its transition from a unitary to a federal system of government, under the leadership of Prime Minister Meles Zenawi and the ruling Ethiopian People's Revolutionary Democratic Front (EPRDF) coalition. The country's population was approximately 74 million. On September 5, the government certified the results of the May 15 national parliamentary elections, in which the EPRDF won a third consecutive five-year term. Domestic and international observers reported that polling throughout the country was generally credible, although irregularities and intimidation of voters and election observers marred polling in many areas. Although political parties predominantly were ethnically based, opposition parties engaged in a steady process of consolidation. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements within those forces acted independently of government authority.

After the May elections, serious human rights abuses occurred, when the opposition parties refused to accept the announced results, and in November after the Coalition for Unity and Democracy (CUD) called for civil disobedience, which resulted in widespread riots and excessive use of force by the police and military. Although there were some improvements, the government's human rights record remained poor and worsened in some areas. In the period leading up to the May national elections, campaigning was open and debates were televised. The Carter Center described this period as credible and commendable. However, in the period following the elections, authorities arbitrarily detained, beat, and killed opposition members, ethnic minorities, NGO workers, and members of the press. Authorities also imposed additional restrictions on civil liberties, including freedom of the press and freedom of assembly. The following human rights problems were reported:

- limitation on citizens' right to change their government
- unlawful killings, including alleged political killings, and beating, abuse, and mistreatment of detainees and opposition supporters by security forces
- poor prison conditions
- arbitrary arrest and detention of thousands of persons, particularly those suspected of sympathizing with or being members of the opposition
- detention of thousands without charge, and lengthy pretrial detention
- government infringement on citizens' privacy rights, and frequent refusal to follow the law regarding search warrants
- government restrictions on freedom of the press; arrest, detention, and harassment of journalists for publishing articles critical of the government; self-censorship by journalists
- government restrictions on freedom of assembly including denial of permits, burdensome preconditions or refusal to provide assembly halls to opposition political groups, and at times use of excessive force to disperse demonstrations
- government limitations on freedom of association
- violence and societal discrimination against women, and abuse of children
- female genital mutilation (FGM)
- exploitation of children for economic and sexual purposes

- trafficking in persons
- societal discrimination against persons with disabilities, and discrimination against religious and ethnic minorities
- government interference in union activities

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 paramilitary groups committed unlawful killings, including political killings. The Ethiopian Human Rights Council (EHRCO) reported that from January to March armed militia killed several members of the opposition All-Ethiopia Unity Party/Coalition for Unity and Democracy (AEUP/CUD) in the Amhara Region. For example, on January 19, militia killed AEUP member Anley Adis and local AEUP chairman Eyilegne Wendimneh, both of Debay Telat-gen District, Yebabat Kebele. On February 28, militia killed Tilahun Kerebe of Ankesha District, Sostu Shumata Zegsa Abo Kebele; and on March 21, Alamir Aemero of Shikudad District, Absela Kebele. By year's end, police had arrested two suspects in the killing of Tilahun Kerebe.

The Oromo National Congress (ONC) reported that, between March 19 and September 24, police, militia, and *kebele* (local administration) officials shot and killed 24 members and supporters. For example, on March 28, police shot and killed Ahmed Adem of Chelia District, Ijai Town. On June 12, police shot and killed parliamentarian-elect Tesfaye Adane, representing Arsi Negeli Town, East Shoa Zone. Some of these killings were a result of confrontations in which both sides were armed. By year's end, three policemen suspected of being involved in the killing of parliamentarian-elect Tesfaye Adane were detained at Zway Prison and their case was under investigation.

EHRCO reported that on April 23, *kebele* officials shot and killed Hassan Endris, a coordinator for the CUD in South Wollo Zone, Were-Ilu District, Kebele 11, in the Amhara Region. On May 15, government security forces shot and killed Sheikh Osman Haji Abdella of Shashamane District, Hurso Sembo Kebele, Oromo Region.

The Ethiopian Social Democratic Federalist Party (ESDFP) reported that on August 18 army troops killed Bezela Lombiso of Gibe District in the Southern Nations, Nationalities, and Peoples Region, and raped his wife. Bezela faced charges of killing a policeman during the 2000 national and regional elections.

The CUD reported that on September 11 armed militia beat CUD member Asefa Getahun and that he died of his injuries the following day. On October 1, local militia shot and killed CUD member Girma Biru, of Sultulta Wereda, Mulo Town. The CUD stated that local administrators and armed militia were responsible for the October 11 extrajudicial killing of Mosse Wasse, in Shoga District, west Gojjam/Jiga, Amhara Region; and the October 16 extrajudicial killing of Tila Tsega, at Lay Gaynt/Nefas Mewucha, North Gonder.

In October 2004 EHRCO reported several alleged killings by police. For example, on October 18, police shot and killed Geletaw Mamo, of North Shoa Zone, Keya Gebriel Kebele, Amhara Region. A suspect in the killing was in police custody in the town of Jima. Authorities released a suspect in the November 2004 fatal police shooting of Nesredin Shehselo, a baker in Bole Subcity, Addis Ababa, on bail. Three suspects in the November 2004 fatal police shooting of Ashenafi Tabor, of Ilu District, Teji Town, were in custody at Sebeta police station. A suspect in the December 2004 fatal police shooting of Efreem Alemayehu, of Kirkos Subcity in Addis Ababa, was in police custody. A suspect in the January 3 fatal police shooting of Kebede Uzo, of Jijiga Town in the Somali Region, was in police custody in Jijiga.

There were no significant developments in the following cases of persons killed by security forces in 2004: the March killing of ninth-grade student Alemu Tesfaye in Oromiya Region; the killing of high school student Amelework Buli of Oromiya Region; the March to May killings of AEUP supporters; and the June incident of military personnel colliding with and then firing on a civilian vehicle in Gode town, killing 10 persons.

There were no developments in the case of district police responsible for the 2003 killing of opposition Southern Ethiopian People's Democratic Coalition (SEPDC) member Aeliso Tieliso.

The government reported that prosecutions had begun against several individuals suspected of the December 2003 to May 2004 extrajudicial killings of 13 Anuak civilians in the Gambella Region. In March Amnesty International reported that government soldiers had killed, raped, and tortured hundreds of Anuaks in the Gambella Region during that period.

During 2005 EHRCO reported that, from June 6 to 8, the police and army shot and killed 42 unarmed demonstrators in Addis Ababa. Between November 1 and 7,

military and police forces opened fire on rioters who were throwing rocks, and in some cases were armed with machetes and grenades, killing at least 40 individuals in Addis Ababa (see section 2.b.). For example, on June 6, following unrest at Addis Ababa University, police shot and killed Shibre Desalegn of Yeka Subcity and Yesuf Abdela, a student at Kotebe Teacher's Training College. On June 8, police shot and killed 16-year-old student Nebiy Alemayehu of Kolfe Subcity, and Zulufa Surur (a mother of seven children), while security forces killed 16-year-old brothers Fekadu Negash and Abraham Yilma. Federal police acknowledged the death of 26 persons on June 8 following an unlawful demonstration. Several police were also killed during the November riots. On December 7, the government established an independent commission of inquiry to investigate circumstances surrounding the killings. The commission publicly issued a call for information and complaints.

EHRCO reported that on July 24 and 26 unidentified persons detonated hand grenades inside 4 hotels and a residence in the town of Jijiga, killing 5 persons and injuring 31. Police took suspects into custody and the case was under investigation.

Armed elements of the Oromo Liberation Front (OLF) and the Ogaden National Liberation Front (ONLF) continued to operate within the country. Clashes with government forces on numerous occasions resulted in the death of an unknown number of civilians, government security forces, and OLF and ONLF troops and members.

At year's end there were approximately two million landmines in the country, many dating from the 1998–2000 war with Eritrea. During the year landmines killed seven civilians, injured four, and destroyed seven vehicles in districts bordering Eritrea. The government demining unit continued to make limited progress in its survey and demining of border areas. United Nations Mission in Eritrea and Ethiopia (UNMEE) officials reported that new landmines were planted on both sides of the Ethiopian-Eritrean border during the year. The government and UNMEE engaged in demining activities in selected areas along the border and disseminated information on the whereabouts of suspected mined areas to local residents.

In June, July, October, and November, suspects arrested for the April 2004 hand grenade attack on a television room at Addis Ababa University (AAU) during a Tigrigna language news program appeared in court; the trial was scheduled to resume in January 2006.

There were no developments in the May 2004 hand grenade attack on a Tigrayan-owned shop in Debre Zeit, Oromiya Region. Police blamed the OLF for the attack.

Ethnic clashes resulted in hundreds of deaths during the year (see section 5).

The federal high court in Addis Ababa continued to arraign and prosecute those formally charged with committing genocide and other war crimes, including extrajudicial killings, under the 1975–91 Derg regime (see section 1.e.).

b. Disappearance.—There were reports of disappearances perpetrated by government forces during the year, some of which may have been politically motivated. In nearly all cases, security forces abducted persons and detained them in undisclosed locations for varying lengths of time ranging from weeks to months. Thousands of such cases occurred in response to calls for struggle against the government by the OLF in Oromiya and during post-election public demonstrations in November and December.

EHRCO reported the disappearance of 17 persons between June 8 and 10. On June 8 police abducted Ashenafi Berhanu, Tsegaye Neguse, Daniel Worku, and Adem Hussien, all working in Addis Ababa, and Jelalu Temam of Arada Subcity in Addis Ababa, and the brothers Girum Seifu and Mekonnen Seifu of Lideta Subcity; on June 9, security forces abducted Endeshaw Terefe of Addis Ketema Subcity in Addis Ababa, and federal police abducted Daniel Abera, Tesfaye Bacha, Tesfaye Jemena, Bonsa Beyene, and Getu Begi of Bole Subcity in Addis Ababa; and on June 10, Solomon Bekele of Lideta Subcity, and Amanuel Asrat, Mesfin Mergia, and Dawit Demerew of District 9, Kebele 7. The whereabouts of these individuals were not known.

There were no new developments in the May 2004 detention of Jigsa Soressa, a guard at the Mecha and Tulema Association (MTA), an Oromo nongovernmental organization (NGO), who reportedly continued to be detained at Addis Ababa prison.

The government and independent sources reported that Oromo singer Raya Abamecha, who disappeared in 2004, had returned to Addis Ababa. Details of Abamecha's disappearance were not known at year's end.

On June 9, three Ethiopian air force personnel landed a military helicopter at Ambouli, Djibouti; two of them reportedly requested asylum, but an Ethiopian military delegation reportedly convinced them to return to Ethiopia the next day. AI and UNHCR attempted to visit them in Djibouti but were refused. At year's end, family members told local press that the pilots were detained at an air force base and were restricted from seeing visitors.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits the use of torture and mistreatment, there were numerous credible reports that security officials often beat or mistreated detainees. Opposition political parties reported frequent and systematic abuse of their supporters by police and regional militias.

EHRCO reported that on May 14, Abdeta Dita Entele, a member of the opposition coalition Oromo National Congress/United Ethiopian Democratic Forces of Siraro District in the Oromo Region, committed suicide following the severe beatings he received from *kebele* officials.

On October 16, two men armed with pistols attacked Daniel Bekele, a policy advocate for the NGO ActionAid Ethiopia and a member of the executive committee of the Network of Ethiopian Nongovernmental Organizations and Civil Society Organizations, which monitored the May 15 elections. According to ActionAid, the armed men beat him in the eye. At year's end, Bekele was in police detention on charges of treason and genocide.

Authorities took no action against police responsible for the February and March 2004 police beatings of students, teachers, and parents at Oromiya Region high schools and universities; or against militia responsible for May 2004 attacks on its members reported by the opposition All-Ethiopia Unity Party.

Security forces beat persons during demonstrations (see section 2.b.).

In October 2004 an undisclosed number of the approximately 330 students expelled from Addis Ababa University following the January 2004 Oromo student protests, who had been ordered by police to kneel and run barefoot on sharp gravel for several hours, were readmitted to the university (see section 2.b.).

There were no significant developments in cases of beatings and torture committed by security forces in 2003.

Unlike in previous years, there were no reports that security forces beat journalists.

On August 11, local and international media reported that the federal high court sentenced to death two former senior government officials accused of torturing political opponents during the former Mengistu regime—former National and Public Security Minister Tesfaye Woldeselase and Leggesse Belayneh, former head of criminal investigations.

During the year ethnic clashes resulted in hundreds of injuries and deaths (see section 5).

Prison and Detention Center Conditions.—Prison and pretrial detention center conditions remained very poor, and overcrowding continued to be a serious problem. Prisoners often were allocated fewer than 21.5 square feet of sleeping space in a room that could contain up to 200 persons. The daily meal budget was approximately 25 cents (2 birr) per prisoner, and many prisoners had family members deliver food daily or used personal funds to purchase food from local vendors. Prison conditions were unsanitary, and access to medical care was unreliable. There was no budget for prison maintenance.

In detention centers police often physically abused detainees. Diplomatic observers reported firsthand accounts of such beatings from Addis Ababa University student detainees in Oromiya. Authorities generally permitted visitors, but sometimes denied them access to detainees.

While statistics were unavailable, there were some deaths in prison due to illness and poor health care. Prison officials were not forthcoming with reports of such deaths.

Authorities sometimes incarcerated juveniles with adults, if they could not be accommodated at the juvenile remand home. There was only one juvenile remand home for children under age 15, with the capacity to hold 150 children.

Human rights organizations reported that the government had transported 10 to 18 thousand individuals (mostly youths aged 18–23 detained during the November mass house-to-house searches in Addis Ababa) to Dedessa, a military camp formerly used by the Derg regime located 375 kilometers west of the capital. Observers expressed concern that the camp's remote location and lack of facilities threatened the health of detainees. Human rights organizations reported on similar detention camps in and around Bahir Dar. Most of these detainees were released by year's end. The government transported an unknown number of other detainees to other detention facilities around the country during the same November period. By year's end the government publicly announced that it had released all but three thousand detainees, who would be charged with relatively minor crimes potentially carrying sentences of up to several months confinement. International observers were denied access to the detention facilities, but local NGO Prison Fellowship Association was permitted access.

During the year the International Committee of the Red Cross (ICRC) generally had access to federal and regional prisons, civilian detention facilities, and police stations throughout the country, and conducted hundreds of visits involving thousands of detainees. The government also granted diplomatic missions access, subject to advance notification, to prison officials. Authorities allowed the ICRC to meet regularly with prisoners without third parties being present. The ICRC received permission to visit military detention facilities where the government detained suspected OLF fighters. The ICRC also continued to visit civilian Eritrean nationals and local citizens of Eritrean origin detained on alleged national security grounds.

Government authorities continued to permit diplomats to visit prominent detainees held by the special prosecutor's office (SPO) for alleged involvement in war crimes and terrorist activities. However, the government denied representatives of the international community, including the ICRC, access to leaders of the CUD opposition party, members of civil society groups, and journalists detained in early November for alleged involvement in antigovernment demonstrations in Addis Ababa, who remained in federal police custody at Addis Ababa's Ma-Ekelawi detention facility at year's end. The government permitted Prison Fellowship Association and local religious leaders to visit these detainees.

d. Arbitrary Arrest or Detention.—Although the law prohibits arbitrary arrest and detention, the government frequently did not observe these provisions in practice.

Role of the Police and Security Apparatus.—The Federal Police Commission reports to the Ministry of Federal Affairs, which in turn is subordinate to the parliament. Local government militias also operated as local security forces largely independent of the police and the military. Petty corruption remained a problem in the police force, particularly among traffic policemen who solicited bribes from motorists. Impunity also remained a serious problem. The government rarely publicly disclosed the results of investigations into such types of abuses. The federal police acknowledged that many members of its police force as well as regional police lack professionalism.

The government continued its efforts to train police and army recruits in human rights. During the year the government continued to seek ICRC assistance to improve and professionalize its human rights training and curriculum to include more material on the constitution and international human rights treaties and conventions.

In late November parliament established a commission, whose members were appointed by the prime minister, to investigate the violent demonstrations of June and early November. The chair of the commission reported to a group of foreign ambassadors that it would begin in February 2006 to investigate alleged use of excessive force by security forces.

Arrest and Detention.—Authorities regularly detained persons without warrants and denied access to counsel and family members, particularly in outlying regions, and for those thousands of young persons detained during and after the November riots. According to law, detainees must be informed of the charges against them within 48 hours, but this generally was not respected in practice. While there was a functioning bail system, it was not available for some offenses, including murder, treason, and corruption. In most cases authorities set bail between \$115 and \$1,150 (1 to 10 thousand birr), which was too costly for most citizens. In addition police officials did not always respect court orders to release suspects on bail. With court approval, persons suspected of serious offenses can be detained for 14 days while police conduct an investigation, and for additional 14-day periods while the investigation continues. The law prohibits detention in any facilities other than an official detention center; however, there were dozens of crude, unofficial local detention centers used by local government militia. In the Oromiya region, a police training facility was used as a makeshift prison during and after the November riots.

The government provided public defenders for detainees unable to afford private legal counsel, but only when their cases went to court. While in pretrial detention, authorities allowed such detainees little or no contact with legal counsel.

There were many reports from opposition party members that in small towns authorities detained persons in police stations for long periods without access to a judge, and that sometimes these persons' whereabouts were unknown for several months. Opposition parties registered many complaints during the year that government militias beat and detained their supporters without charge for participating in opposition political rallies (see section 1.c.).

The government continued its harassment of teachers, particularly in Oromiya and Tigray. The independent Ethiopian Teachers Association (ETA) reported that authorities detained numerous teachers and accused them of being OLF sympathizers, many of whom remained in prison at year's end. Some of the teachers had

been in detention for several years without charges. Human rights observers suspected several of the prolonged detentions were politically motivated.

Police continued to enter private residences and arrest individuals without warrants.

Police detained journalists during the year (see section 2.a.).

Authorities took no action against Amhara Region government militia, district officials, police who arbitrarily detained AEUP members in April and May 2004, or against police who arbitrarily detained ONC member Olbana Lelisa from May to July 2004 without filing charges against him.

During the year police detained persons for holding meetings and demonstrations (see section 2.b.).

Opposition groups alleged that some of the persons detained by the SPO were held for political reasons, an allegation that the government denied (see section 1.e.).

Following the June 6 to 9 demonstrations protesting the announced outcome of the May 15 parliamentary elections, police detained thousands of opposition members and other residents of Addis Ababa. Government security forces took three to four thousand residents from their homes and detained them in Zway prison outside the capital. EHRCO reported the illegal detention between June 10 and 16 of 74 opposition political party activists, businessmen, and students. Security forces beat and detained an estimated five thousand individuals in various prisons around the country. On June 29, the federal police reported that it had detained 4,455 “suspects;” most were released after several days of detention. In mid-September, however, 40 percent of the prisoners at Shoa Robit prison (742 of 1,866 prisoners), north of Addis Ababa, were young men arrested around the time of the June demonstrations on charges of dangerous vagrancy.

In September the government arrested more than one thousand members of the CUD and UEDF opposition coalitions, following their announcement of plans to hold demonstrations on October 2.

In November, 30–200 motorists were arbitrarily detained for honking their horns during the African Union summit opening ceremony in response to an opposition call for civil disobedience.

In November military and police conducted door-to-door searches in Addis Ababa, often at night, and detained without warrant between 10 and 18 thousand youths, aged 18 to 23, believed to have been involved in violent antigovernment demonstrations.

In August and September police and local militia arrested six Oromo Federalist Democratic Movement (OFDM) members without warrant in the East and West Welega Zone of Oromiya Region: Shiferaw Fekadu, Fikru Benti, Mitiku Terfa, Abraham Jiregna, Abdeta Abraham, and Habte Tesema.

The OFDM reported that ruling Oromo People’s Democratic Organization (OPDO) cadres harassed, intimidated, and detained hundreds of OFDM members who served as observers during the May 15 parliamentary elections. For example, in Arsi Zone, Assassa District, cadres arrested and detained Sheikh Mahmud Tusuru for several days. Authorities interrogated Gebeyehu Hayato, the son of a newly elected member of parliament, over 10 times. OFDM member Hussein Adem faced 20 days imprisonment in Sodere District. At year’s end, nine OFDM members who served as observers during the May election remained detained in Gachi district of Illubabor zone. The OFDM reported to the NEB that local officials arrested 10 OFDM members in Kokosa Constituency, Nansibo District, Bale Zone. OFDM also reported the detention of 13 of its members in Borena Zone, Bule Hora District.

In response to attacks by armed opposition groups operating out of Somalia and Kenya, the military continued to conduct operations, which included occasional arbitrary detentions, in the Gambella, Somali, and Oromiya regions.

In November authorities re-arrested CUD member and mayor of Addis Ababa Dr. Berhanu Nega and Professor Mesfin Woldemariam, two prominent academics and human rights activists, for participating in planning antigovernment protests aimed at the removal of the government. At year’s end they remained in confinement on charges of treason and genocide, along with several members of NGOs active in civic education, and independent journalists. Other prominent CUD leaders arrested included: CUD president Hailu Shawel; Dr. Yacob Hailemariam, a former prosecutor for the UN International Criminal Tribunal for Rwanda; and CUD vice-president Ms. Birtukan Mideksa, a former judge. Their prison conditions were reported to be adequate, especially those of the CUD leaders, who had separate cells. However, access to legal counsel was sporadic, and there were serious concerns about access to adequate medical care.

Authorities took no action against Amhara Region government militia, district officials, and police who arbitrarily detained AEUP members in April and May 2004;

or against police who arbitrarily detained ONC member Olbana Lelisa from May to July 2004 without filing charges against him.

Authorities took no action against police who detained hundreds of Oromo students and teachers for several weeks in detention centers on suspicion of being supporters of the OLF in 2004 (see section 1.c.).

Thousands of criminal suspects reportedly remained in pretrial detention, some for years. Some of the detainees were teachers and students from the Oromiya Region accused of involvement in OLF activities, or who were arrested after student unrest broke out in Oromiya in February and March 2004.

The government detained several persons without charge at the Gondar prison, some for years, while the police investigated their cases. In April authorities sentenced Wondante Mesfin to life imprisonment following his conviction on murder charges; he had been in detention in Nefas Mewcha prison in South Gondar Zone since 1994.

e. Denial of Fair Public Trial.—While the law provides for an independent judiciary, the judiciary remained weak and overburdened. Most perceived the judiciary to be subject to significant political intervention.

The government continued to decentralize and restructure the judiciary along federal lines with the establishment of courts at the district, zonal, and regional levels. The federal high court and the federal Supreme Court heard and adjudicated original and appeal cases involving federal law, transregional issues, and national security. The regional judiciary was increasingly autonomous and often heard regional cases.

Regional offices of the federal Ministry of Justice monitored local judicial developments. Some regional courts had jurisdiction over both local and federal matters, as the federal courts in those jurisdictions had not begun operation; overall, the federal judicial presence in the regions was limited. Anecdotal evidence suggested that some local officials believed they were not accountable to a higher authority. Pending the passage of regional legislation, federal procedural and substantive codes guide all judges.

To remedy the severe lack of experienced staff in the judicial system, the government continued to identify and train lower court judges and prosecutors, although officials acknowledged salaries did not attract the desired number of competent professionals.

Trial Procedures.—According to the law, accused persons have the right to a fair public trial by a court of law within a “reasonable time;” the right to a presumption of innocence; the right to be represented by legal counsel of their choice; and the right to appeal. Despite these protections, closed proceedings occurred, at times authorities allowed detainees little or no contact with their legal counsel (see section 1.d.), and detainees usually were not presumed innocent. The public defender’s office provides legal counsel to indigent defendants, although its scope remained severely limited, particularly with respect to SPO trials. Although the law explicitly stipulates that persons charged with corruption are to be shown the body of evidence against them prior to their trials, authorities routinely denied defense counsel access to such evidence before trial.

The law provides legal standing to some pre-existing religious and customary courts and allows federal and regional legislatures to recognize other courts. By law, all parties to a dispute must agree that a customary or religious court will be used before it may hear a case. Shari’a (Islamic) courts may hear religious and family cases involving Muslims. In addition, other traditional systems of justice, such as councils of elders, continued to function. Although not sanctioned by law, these traditional courts resolved disputes for the majority of citizens who lived in rural areas, and who generally had little access to formal judicial systems.

The federal first instance court’s seventh criminal branch handled cases of sexual abuse against women and children. By the end of the year the court had received 541 cases and had passed verdicts on 351 cases.

Three federal judges sat on one bench to hear all cases involving juvenile offenses. There was a large backlog of juvenile cases, and accused children often remained in detention with adults until officials heard their cases.

The military justice system lacked adequately trained staff to handle a growing caseload. Foreign assistance to train military justice officials resumed during the year.

There was no new information on the activities of the SPO, established in 1992 to create a historical record of the abuses committed during the Mengistu government (1975–91, also known as the Derg regime) and to bring to justice persons responsible for human rights violations. Approximately one thousand persons remained in detention charged with Derg-era offenses. Court-appointed attorneys,

sometimes with inadequate skills and experience, represented many of the defendants.

Political Prisoners.—The total number of political detainees during the year was estimated to be in the several thousands.

While the law stipulates that all suspects be arraigned before a court within 48 hours, the leaders of the CUD, civil society, and journalists were held without access to courts, counsel, and family for many days. Human rights groups and political parties (such as the CUD, UEDF, and OFDM) reported that police and local militia detained thousands of persons in police stations and detention camps for several days in order to conduct interrogations.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law requires authorities to obtain judicial search warrants to search private property; however, in practice, particularly outside Addis Ababa, police often searched property without obtaining warrants (see section 1.d.). Opposition party representatives claimed that police sometimes used fraudulent warrants to enter homes and commit criminal acts, including extorting money. There were reports that members of the federal police robbed persons during the year, including through the use of false warrants.

There continued to be reports of police forcibly entering civilian homes. During and following antigovernment demonstrations in June and early November, security forces entered homes and searched premises without warrants, took thousands of persons from their homes in the middle of the night without warrants, and often detained family members or other residents.

Some opposition party members reported that authorities burned down their homes and looted their offices (see section 3).

All electronic communications facilities were state-owned. Political party leaders and one foreign diplomat reported incidents of phone-tapping and other electronic eavesdropping.

The government used a system of paid informants to report on the activities of particular individuals.

There were reports during the year of the forced displacement of families in rural areas. The government stated that its resettlement program, which moved families from drought-prone areas to more fertile lands, was entirely voluntary, but opposition parties accused local authorities in some rural areas of targeting opposition supporters for resettlement by manipulating resettlement rosters. NGOs such as Doctors Without Borders reported that, in several instances, the government resettled persons in areas with no existing infrastructure or clean water supply, resulting in unusually high rates of infant mortality.

During the year there continued to be credible reports from EHRCO and opposition parties that in certain rural areas in the Oromiya Region, Amhara Region, and the Southern Nations, Nationalities, and Peoples Region, local officials used threats of land redistribution and withholding of food aid and fertilizer to garner support for the ruling coalition. There were many reports of ruling party or government harassment intended to prevent individuals from joining opposition parties or from renting property to them. There were numerous reports of more serious forms of harassment and violence directed against members of opposition parties in many areas of the country, including beatings, house burnings, and killings (see sections 1.c., 1.d., 3, and 5).

There also were credible reports that teachers and other government workers had their employment terminated if they belonged to opposition political parties. According to the opposition SEPDC, the regional government continued to dismiss SEPDC members—particularly teachers—from their jobs.

The law imposes a six-month waiting period on anyone seeking to remarry following a divorce or the death of one's spouse (see section 5). The government maintained that this waiting period was necessary to determine whether a woman may still be carrying the child of her former spouse. In practice, this was not enforced, although the official overseeing such weddings may request a pregnancy test to show the woman was not pregnant from a previous marriage. Any interested party may request a written official explanation of why a wedding was allowed to occur within the waiting period.

Security forces continued to detain family members of persons sought for questioning by the government.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—While the law provides for freedom of speech and press, the government restricted these rights in practice. The government continued to harass and prosecute journalists, publishers, and editors for publishing allegedly fabricated information and for other violations of the press law. The govern-

ment controlled all broadcast media. Private and government journalists routinely practiced self-censorship.

Prior to the May 15 national elections, government-controlled media provided unprecedented access to opposition views, but after the election they generally reflected only the views of the government and the ruling EPRDF coalition. Relations between the private press and the government were often strained.

Foreign journalists continued to operate freely and often wrote articles critical of government policies. Government officials often granted foreign journalists or local stringers greater access to government than local independent journalists received. However, prior to the May 15 national elections, some international correspondents reported strong government pressure to self-censor their coverage; they refused to do so, but suffered no immediate consequences.

Although the law allows for private radio stations, and the government said that it would license new stations, the government continued to control all radio and television broadcast media. The government operated the sole television station and tightly controlled news broadcasts. The broadcasting law prohibits political and religious organizations from owning broadcast stations. The law also prohibits foreign ownership.

State-run Radio Ethiopia sold broadcasting time to private groups and individuals who wanted to buy spots for programs and commercials. On April 1, the Southern Nations, Nationalities, and Peoples Region launched daily one-hour Amharic-language broadcasts on its regional FM radio station, Radio Voice of the South. On September 5, the Addis Ababa city administration started test transmissions for a daily five-hour FM broadcast.

There were some restrictions on access to international news broadcasts. Broadcasts of BBC and Deutsche Welle were listened to throughout the country. Opposition Web sites were also accessible by the Internet. At year's end, Voice of America broadcast signals remained subject to intentional jamming. The government permitted ownership of private satellite receiving dishes; however, high costs and the limited capacity of the sole telecommunications entity, the Ethiopian Telecommunications Corporation, effectively restricted access to this technology.

The government continued to use statutory provisions on the publication of false information, incitement of ethnic hatred, libel, and publication of articles offensive to public morality to justify the arrest and detention of journalists. Authorities also detained journalists to pressure them to identify sources of information. Independent journalists accused the government of selectively applying sections of the penal code to justify charges against them. The government charged, detained, and fined dozens of journalists during the year.

On January 11, authorities arrested Shiferaw Insemu, a journalist with the Oromo-language service of the state-owned Ethiopian television (ETV), for the third time, at the central criminal investigation office prison in Addis Ababa.

Shiferaw and fellow ETV journalist Dhabassa Wakjira, who was arrested in April 2004, remained in detention on several charges, including passing government information to the OLF leadership. Prison authorities ignored various court orders to free them.

Police asked *Addis Zena* editor-in-chief Fassil Yenealem to disclose his sources for two stories, including a May 17 article reporting that the ruling EPRDF had established a special intelligence force to arrest and assassinate CUD leaders, and had recruited 11 Tigrayan women to poison CUD leaders. Yenealem did not reveal his sources and was subsequently arrested for publishing a story that could not be corroborated.

On June 7, the Ministry of Information revoked the accreditation of five local journalists working for foreign media, accusing them of writing "unbalanced reports" on the May 15 elections: Helen Mohammed, Temam Aman, Bereket Teklu, Tadesse Engidaw, and Asseggedch Yiberta.

On June 8, government security forces detained Addis Ababa newspaper distributor Fikre Gudu and held him for one month. After his release on July 7, he gave an interview to the private Amharic-language weekly *Asqal* discussing his arrest and subsequent imprisonment in a detention center outside the capital. He described poor prison conditions and criticized the government for jailing him. Authorities detained him again on August 19; they released him on bail after four days in police detention. During his latest detention, police accused Gudu of using the interview to spread false information and to defame the police and prison system.

In November the government issued a list of 58 persons, including 12 journalists, wanted for alleged involvement in the violent antigovernment demonstrations that occurred in early November. During November police arrested six of the journalists. The imprisoned opposition members and journalists were charged with treason, genocide, and attempts to subvert the constitution, charges which carry prison

terms and the possibility of a death penalty for those found guilty. By year's end the arrested journalists remained in detention awaiting arraignment. A byproduct of the arrests was the closure of more than a dozen Amharic-language newspapers, collectively representing more than 80 percent of the total circulation of Amharic newspapers.

At year's end, one journalist had been sentenced to one month in prison and released; more than 34 journalists had been summoned, questioned, arrested, detained on press charges, and made to pay bail ranging from \$58 to \$346 (500 to 3 thousand birr); approximately 54 journalists remained in self-imposed exile; and a number of journalists in the country faced criminal charges. In addition, two state-media journalists remained imprisoned on political rather than press-related charges.

All official media received government subsidies; however, the official media were legally autonomous and responsible for their own management and partial revenue generation. The minister of information was the government's official spokesperson and the ministry managed contacts between the government, the press, and the public; however, the government routinely refused to respond to queries from the private press and often limited its cooperation with the press to the government-run Ethiopian News Agency, the EPRDF-controlled Walta news agency, and correspondents of international news organizations. The prime minister's office continued to deny to the independent press all access for coverage of official events at the prime minister's office, limiting such coverage and access to government media representatives.

Reporters acknowledged that they routinely practiced self-censorship.

The Ministry of Information required that newspapers have a bank balance of \$1,150 (10 thousand birr) when annually registering for a publishing license. This sum effectively precluded some smaller publications from registering. Authorities also required permanent residency for publishers to establish and operate a newspaper. The government did not require residency for other business owners, and some independent journalists maintained that the government used the residency requirement as a form of intimidation. The press law requires all publishers to provide free copies of their publications to the Ministry of Information on the day of publication.

The majority of private newspapers as well as government newspapers printed their publications on government-owned presses. Following the unrest in November, presses frequently refused to print some papers, citing Ministry of Justice statements indicating that presses would be held responsible for content they printed. Police had the authority to shut down any printing press without a court order, but during the year did not exercise that power.

The English-language press continued to publish articles critical of the government.

On March 3, the federal high court lifted a 17-month ban on the Ethiopian Free Press Journalists Association (EFPJA) and its leadership, by upholding a December 2004 decision by the court of first instance that the EFPJA was a legally recognized association, and rejecting the appeal of the Ministry of Justice. At year's end, the organization was inactive, as its president, journalist Kifle Mulat, was among journalists sought for arrest by the government. Mulat avoided detention, however, by not returning to the country at the time of the November unrest. A rival association with the same name as the EFPJA, sponsored by the government, was inactive during the year and its operating status was unknown.

At year's end the draft press law proposed in 2003 by the Ministry of Information had not been formally presented to parliament. However, on March 28, parliament included some of the most punitive provisions of the draft press law in the new penal code, which took effect in May. The articles include general provisions applicable to all offenses, and specific ones applicable to particular crimes. Among them are articles taken verbatim from the draft press law referring to liability for offenses committed by the press.

Journalists and international media organizations criticized the draft law, citing its ambiguity, restrictions, heavy penalties, and granting of excessive powers to the Ministry of Information. The government asked international donors to provide media experts to assist in redrafting and improving the press laws.

The government did not restrict Internet access. In the wake of the June 8 disturbances, however, the state telecommunications monopoly disabled mobile-phone text messaging, a block that remained largely in place at year's end, claiming that the CUD used text messaging to call for antigovernment actions.

The government restricted academic freedom during the year. The government maintained that professors could conduct research in their disciplines but that they could not espouse political sentiments. Authorities did not permit teachers at any level to deviate from official lesson plans and discouraged political activity on uni-

versity campuses. Prior to the June disturbances, some of which occurred on and adjacent to Addis Ababa University's campus and on the premises of a state technical institute, there were reports that uniformed and plainclothes police officers were present on campuses. The government arrested students and teachers during the year (see section 1.d.).

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly. Prior to the May 15 national elections, there were numerous opposition rallies, including one that occurred in Addis Ababa attended by nearly one million persons the weekend prior to the elections. However, immediately following the elections, the government restricted this right in practice.

Organizers of large public meetings or demonstrations must notify the government 72 hours in advance and obtain a permit. There were several reports during the year that authorities denied permits sought by opposition political parties. Opposition parties also reported long, unexplained delays by the regional authorities in issuing permits, and last minute revocation of permits. The independent Ethiopian Teacher's Association (ETA) continued to encounter government restrictions when attempting to hold meetings or demonstrations.

On May 14, the eve of national elections, the prime minister announced a one-month ban on all demonstrations in Addis Ababa and the surrounding area. In a May 25 press statement, EHRCO condemned the ban as an infringement on the constitutional rights of citizens.

Despite the ban (which was extended to August 13), demonstrators protested against the government from June 6 to 8, leading to the killing of at least 42 unarmed demonstrators by security forces in Addis Ababa. On June 6, following unrest at Addis Ababa University, police shot and killed Shibre Desalegn of Yeka Subcity and Yesuf Abdela, a student at Kotebe Teacher's Training College. On June 8, police shot and killed 16-year-old student Nebiy Alemayehu of Kolfe Subcity, and Zulufa Surur (a mother of seven children), while security forces killed brothers Fekadu Negash and Abraham Yilma (age 16). Federal police acknowledged the death of 26 persons on June 8 following an "unlawful demonstration." The government established an independent commission of inquiry to investigate circumstances surrounding the killings.

Between November 1 and 7, military and police forces opened fire on rock-throwing demonstrators in Addis Ababa, killing at least 40 individuals (see section 2.b.).

The government claimed that some demonstrators were armed with machetes and hand grenades. Several regions throughout the country, including Amhara and Oromiya, reported numerous deaths resulting from confrontations between opposition protestors and the military or police.

The opposition CUD and UEDF parties reported that in September local officials prohibited public meetings the parties had organized in various towns. The UEDF reported that it had to cancel a general assembly of its members planned for September 29 because the government directed hotel proprietors in Addis Ababa not to rent their assembly halls to the UEDF or other opposition parties. The CUD reported that the Addis Ababa city administration imposed extraregulatory restrictions that prevented a mass rally planned for October 2. The government prevented the CUD from meeting after charges were brought on December 21.

Opposition political parties reported that during the year their supporters were targets of frequent and systematic violence by ruling party supporters, often after leaving meetings (see sections 1.c., 1.d., and 3). EHRCO reported that regional governments, including the Addis Ababa regional administration, infringed on the right of peaceful assembly and association. For example, authorities cancelled public meetings planned for September 4 by the CUD in Addis Ababa, Gondar, Bahir Dar, Awasa, and Dessie. Police arbitrarily arrested several CUD members in various towns where public meetings were scheduled to be held. Most obtained their release after several days of detention.

The OFDM reported that OPDO cadres seized and destroyed membership cards of OFDM supporters, disrupted OFDM political meetings, and detained OFDM members in police stations and army camps. Officials picked up Kebede Jato and several other OFDM members from Manasibu district and detained them for several days in an army camp. On September 8, following a quarrel in Dembidollo, an OPDO cadre shot and injured OFDM member Beyene Alemu.

No actions were taken against police who in January 2004 reportedly beat demonstrators protesting the government's decision to transfer the capital of Oromiya from Addis Ababa to Adama; police who forced hundreds of detained student protestors in January 2004 to kneel and run barefoot on gravel for hours (see section 1.c.); nor against security forces who forcibly dispersed demonstrations in 2003

or 2002. It was unknown at year's end whether any persons detained in previous years for holding illegal meetings remained in detention.

During the year attacks by police, the army, and militia against members of the opposition and the general public escalated, particularly for demonstrations against the results of the May national elections. EHRCO reported that after facing police and armed soldiers during June 6 to 9 demonstrations in Addis Ababa, 35 Addis Ababa residents were admitted to hospitals with serious gunshot wounds. The government had not investigated these cases by year's end.

The opposition CUD and UEDF parties reported that after the May 15 parliamentary elections, security forces continued to follow, harass, and arrest their leaders. For example, security forces placed opposition political party leaders, including CUD chairman Hailu Shawel and CUD spokesman Lidetu Ayalew, under house arrest for several days, and barred visitors from seeing them. On September 16, unidentified persons severely beat Debebe Eshetu, a senior official of CUD; police have not investigated the incident. Throughout October unidentified persons followed and harassed CUD Chairman Dr. Berhanu Nega, mayor-elect of Addis Ababa, and Dr. Merera Gudina, UEDF chairman.

In September and October the UEDF, CUD, and ONC reported numerous arrests (see section 1.d.) and forced office closures throughout the country.

The CUD reported that on October 1, unidentified persons detained and assaulted Bertukan Mideksa, first vice president of the CUD, and Muluneh Eyoel, CUD secretary-general. The attackers also confiscated documents Muluneh was carrying in his briefcase.

There were no developments in the 2004 suspension of the MTA and arrests of its members. Some arrests appear to have been made without warrants, and some detentions continued despite court orders to release suspects (see section 1.d.).

Freedom of Association.—Although the law provides for freedom of association and the right to engage in unrestricted peaceful political activity, the government in practice limited this right. A number of policy issues regarding nongovernmental organizations (NGOs) remained unresolved, including the right of NGOs to enter into formal network arrangements that would enable them to pool funds. The Ministry of Justice registers and licenses NGOs, and there was some improvement in transparency of the NGO registration process. However, the government continued to deny registration to the Human Rights League (see section 4).

As provided by law, the government required political parties to register with the NEB. The NEB's independence was called into question when it made a series of decisions limiting the political activity of opposition parties, including the rejection of the CUD merger, unwillingness to recognize the CUD coalition after the elections, and the recognition of a disputed change in the ONC party leadership.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice; however, local authorities occasionally infringed on this right. The Ethiopian Orthodox Church (EOC) and Islam are the dominant religions; nearly 90 percent of the population adhered to one or the other faith.

While the government required that religious institutions annually register with the Ministry of Justice, there were no reports of government action against institutions that chose not to register. Under the law, a religious organization that undertakes development activities must register its development wing separately as an NGO. The government did not issue work visas to foreign religious workers unless they were associated with the development wing of a religious organization.

Some religious property confiscated under the Mengistu (Derg) regime had not been returned by year's end.

Societal Abuses and Discrimination.—Minority religious groups reported discrimination in the allocation of government land for religious sites. Authorities banned a traditional animist Oromo religious group because it suspected that the group's leaders had close links to the OLF and Macha and Tulama Association (MTA). Protestant groups occasionally reported that local officials discriminated against them when they sought land for churches and cemeteries. Evangelical leaders stated that because authorities perceived them as "newcomers," they were at a disadvantage compared with the EOC and the EIASC in the allocation of land. The Ethiopian Islamic Affairs Supreme Council (EIASC) reported that it faced more difficulty obtaining land from the government than did the EOC, while others believed that the government favored the EIASC. Officials targeted for demolition many mosques that squatters had built without city government approval.

There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Travel, Emigration, and Repatriation.—Although the law provides for these rights, the government restricted some of these rights in practice.

Throughout the year in the Gambella Region, the government continued to monitor and sometimes control the passage of relief supplies and access by humanitarian organizations, explaining that it was doing so as a matter of security for those traveling in the region.

The law prohibits forced exile, and the government did not force any citizens into exile. A number of persons remained abroad in self-imposed exile, including 54 journalists (see section 2.a.).

During the year the ICRC repatriated 427 Ethiopians from Eritrea to Ethiopia and repatriated 192 Eritreans from Ethiopia to Eritrea. Most Eritreans and Ethiopians of Eritrean origin registered with the government and received identity cards and six-month renewable residence permits that allowed them to gain access to hospitals and other public services. However, there were anecdotal reports that local government officials denied indigent Eritreans the right to free medical services.

During the year the UNHCR processed 556 cases for resettlement in third countries and expected that number to exceed 600 by the end of the year.

Internally Displaced Persons (IDPs).—The 1998–2000 war with Eritrea produced approximately 350 thousand internally displaced persons (IDPs). Of these, humanitarian agencies resettled an estimated 225 thousand. In May the Norwegian Refugee Council's Global IDP Project estimated the number of IDPs at between 151 thousand and 167 thousand, including approximately 60 thousand in Tigray Region, 50 thousand in Gambella Region, 30 thousand in the Somali Region, and 10 thousand to 20 thousand in Oromiya Region.

Violent clashes between different ethnic groups during the year internally displaced thousands of persons, and resulted in deaths and injuries (see section 5).

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. A national refugee law was passed in August 2004 and took effect in May. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government generally cooperated with the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and returning citizens.

The government, in cooperation with UNHCR, also continued to provide temporary protection to individuals from Sudan, Eritrea, and Somalia who may not qualify as refugees under the 1951 convention and the 1967 protocol.

As of September the country hosted approximately 100,200 refugees, down from 121 thousand refugees at the end of 2004. Conditions at the 10 thousand-person capacity camp improved, and refugees subsequently had adequate health, education, water, and sanitation facilities. Throughout the year there was a steady influx of Eritrean refugees at a monthly rate of 200 to 450 persons. In response the government and UNHCR worked to find a site for a new camp.

In April the state-run Ethiopian News Agency reported that the federal high court sentenced three persons to up to 14 years' imprisonment for the 2002 ethnically motivated murder in the Gambella Region of 28 Nuer refugees from southern Sudan.

At year's end, approximately 32 thousand Nuer and Dinka refugees remained in Fugnido camp in the Gambella Region.

The conflict between ethnic groups in the Gambella Region complicated UNHCR refugee protection efforts (see section 5). Food deliveries to refugees continued in spite of the crisis in the West; however, humanitarian organizations at times were unable to adequately monitor deliveries due to travel restrictions.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through generally free and fair elections held on the basis of universal suffrage; however, irregularities and intimidation of voters and election observers marred polling in many areas. In practice the EPRDF ruling party dominated the government.

The government policy of ethnic federalism led to the creation of individual constituencies to ensure representation of all major ethnic groups in the House of Peoples' Representatives. Nevertheless, small ethnic groups lacked representation in the legislature. There were 23 nationality groups in 6 regional states that did not have a sufficient population to qualify for constituency seats; however, in the May

elections, individuals from these nationality groups competed for 23 special seats in the 547-seat House of Peoples' Representatives.

Elections and Political Participation.—According to domestic and international observers, the May national elections, in which the EPRDF coalition won 372 of 547 seats, were generally credible. Opposition parties made an unexpectedly strong showing, increasing their parliamentary representation from 12 seats to 172. Irregularities, including intimidation of voters and election observers, marred polling in many areas. The GOE/EPRDF also announced the “final” election results before the NEB released them. Some observers reported killings, disappearances, voter intimidation and harassment, and unlawful detentions of opposition party supporters, particularly in the Amhara, Oromiya, and Southern Nations, Nationalities, and Peoples regions (see section 1.a., b., and d.). Nevertheless, international observers, including the Carter Center, hailed the elections as an important development in the country's efforts at democratization.

Opposition parties accused the NEB of being an instrument of the ruling party and of failing to act when informed of electoral irregularities, including ballot stuffing, vote count fraud, bribery, killings, beatings, and widespread intimidation and harassment by ruling party supporters during the national elections.

In protest against national election results, the CUD opposed taking seats in the House of People's Representatives.

On May 20, the state-run Ethiopian News Agency announced that new parliamentary elections would be held May 22 at several polling stations where voting had not occurred properly; parliamentary elections were subsequently rerun at these locations August 21.

On May 31, in protest against the election results, the CUD announced that it had filed complaints against the NEB, and disputed the results in more than 150 constituencies.

The Carter Center issued a statement expressing concern about reports of improper vote counting and tabulation, stating that its observer teams had “found evidence that ballot boxes have been moved improperly, were improperly secured, or that party agents were barred from polling stations or were not allowed to watch the entire count.” It also reported, “election day and postelection intimidation and harassment.”

The head of the European Union's Electoral Observation Mission (EUEOM), parliamentarian Ana Gomes, issued a preliminary report stating that the May 15 elections “did not live up to international standards,” citing irregularities in key areas. The Minister of Information and other government officials publicly criticized the EUEOM and charged that it illegally and secretly leaked unfounded information to the opposition.

The EU issued a statement noting “continuing issues of concern, including respect for human rights and balanced access to the media,” but stating that “the EU regards the elections as an important step forward in the democratization process.”

On June 10, negotiations between the ruling and major opposition parties resulted in an agreement to adopt an ad hoc complaints resolution process to deal with the large number of unresolved electoral complaints. According to the Carter Center, 44 different complaints investigation panels conducted formal investigations and hearings in 178 constituencies across the country, resulting in a decision by the NEB to hold new elections in 31 constituencies.

On August 16, international media reported that the primary opposition parties would boycott parliamentary elections scheduled for August 21 in the Somali Region. As a result the incumbent Somali People's Democratic Party won all 23 federal parliament seats. Opposition political parties reported that significant irregularities marred the regional election; however, the NEB reviewed the allegations and dismissed them.

In October the government and opposition leaders participated in discussions on the opposition's participation in the House of People's Representatives. While several UEDF members decided to take their seats in the house, some newly elected CUD members of parliament announced they would boycott the opening of parliament, to protest the results of the May elections. By year's end, most of the CUD members had joined parliament. The CUD then called for civil disobedience measures, such as horn-honking, boycotting EPRDF-owned business and ostracizing alleged government supporters, which the government publicly declared illegal.

Beginning on November 1, violent antigovernment protests called by the opposition occurred in Addis Ababa, and the government arrested several dozen opposition leaders, as well as members of the independent media and civil society groups, for alleged participation in unlawful activities. Security forces also detained over 14 thousand demonstrators without charge. Military intervention led to widespread abuses such as arbitrary detention and killings. Security forces arrested at least 12

of the 20 CUD party executive committee members, including party president Hailu Shawel, vice chairman Bertukan Mideksa, secretary-general Muluneh Eyoel, and Addis Ababa mayor-elect Dr. Berhanu Nega, on charges of treason and genocide, among others. At year's end, they remained in prison as their trial began.

The EPRDF, its affiliates, and EPRDF supporters controlled all seats in the 108-member House of Federation, whose members were appointed by regional governments and by the federal government. Membership in the EPRDF conferred advantages upon its members, and the party owned many businesses and awarded jobs to loyal supporters. In addition to the government, only members of the Tigrayan People's Liberation Front (TPLF) had received permission to operate radio stations (see section 2.a.).

During the year the major opposition parties negotiated significant mergers. The AEUP, Rainbow Ethiopia, Ethiopians Democratic Party-Medhin, and the Ethiopian Democratic League formed the CUD, making it the strongest opposition political coalition in the country. During the year other opposition members founded the OFDM, which secured 11 seats in the federal parliament and 10 seats in the Oromiya Regional Council during the May national elections.

Registered political parties must receive permission from regional governments to open local offices. Opposition parties, such as the CUD, the UEDF, and the OFDM, claimed that the pattern of widespread intimidation and violence directed against members of opposition political parties by local government officials continued throughout the year. Opposition parties and the press reported hundreds of such cases, including killings, beatings, arrests, house burnings, and property confiscation.

In many of the cases reported, authorities allegedly told opposition members that they had to renounce their party membership if they wanted access to fertilizer, other agricultural services, health care, or other benefits controlled by the government. Authorities often disrupted or unlawfully banned opposition party meetings.

There were no new developments in the EPRDF's dissolution in late 2003 and early 2004 of offices of the Konso People's Democratic Union (KPDU) and the KPDU-dominated Abaroba and Jarso local councils, or in the arrest and beatings of KPDU members. Authorities took no actions against those responsible for the February 2004 stoning of AEUP member Bekele Tadesse, or for the March 7 bombing of the house of Zemedkun Gebre Kidane, chairman of the AEUP organizing committee in Ankober District.

Of the 19 members of the Council of Ministers, two were women, and a number of women held senior positions. There were 116 women in the 547-seat House of Peoples' Representatives, and 21 women in the 113-member House of Federation. Of the 14 members of the Supreme Court, 3 were women. During the May 15 national elections women constituted nearly half of the community observers, party workers, and election officials at polling stations.

Government Corruption and Transparency.—The Ministry of Justice has primary responsibility for combatting corruption. A combination of social pressure, cultural norms, and legal restrictions limited corruption. Nevertheless, the lack of transparency in the cancellation of telecommunications, power, and other infrastructure tenders raised suspicions of corruption. In addition, government officials appeared to manipulate the privatization process, as state- and party-owned businesses received preferential access to land leases and credit.

The law provides for public access to government information, but access was largely restricted in practice.

The government publishes its laws and regulations in the national gazette prior to their taking effect. The Ministry of Information managed contacts between the government, the press, and the public; however, the government routinely refused to respond to queries from the private press (see section 2.a.).

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

A number of domestic and international human rights groups generally operated with limited government restriction, investigating and publishing their findings on human rights cases. The government generally was distrustful and wary of domestic human rights groups and some international observers. After the November protests the government restricted human rights groups from visiting or investigating detention camps. In April the government expelled representatives of several foreign-based NGOs conducting electoral work. Siegfried Pausewang, a senior EU observer monitoring the May elections, resigned after government authorities accused him of bias.

Two of the most prominent domestic human rights organizations were EHRCO and the Ethiopian Women Lawyers Association (EWLA). The government routinely

discounted EHRCO's reports and labeled it a political organization. On December 16, two of EHRCO's chief investigators, Cherinet Tadesse and Yared Hailemariam, were among 131 individuals the government charged with instigating violence in order to undermine the country.

The EWLA's primary function was to legally represent women. These and numerous other groups primarily engaged in civic and human rights education, legal assistance, and trial monitoring. However, the government neither shared information nor acknowledged the existence of human rights abuses with members of the domestic NGO community.

The government continued to investigate the Human Rights League for alleged ties to the OLF. The league's offices remained closed, and the government had not responded to its 1997 registration request by year's end, despite a court order to do so.

The government generally cooperated with international organizations like the UN and ICRC. ICRC access to prison and other detention facilities was restricted in the wake of election-related violence during the year.

While the government is required by law to establish a human rights commission and an office of the ombudsman with the authority to receive and investigate complaints with respect to misadministration by executive branch offices, neither entity was fully operational by year's end. The institutions had only limited resources. Neither organization had issued a report by year's end.

The Ministry of Justice continued to implement a three-year program of human rights training workshops for judges, prosecutors, and police, as well as community members around the country. Election-related violence, however, severely curtailed program activities.

A parliamentary commission investigated potential government human rights abuses in conjunction with ethnic violence in the Gambella Region in late 2003 and 2004 (see section 5). Human Rights Watch reported in March that the commission grossly underestimated the number of deaths associated with the ethnic violence and contended that neither the military or federal authorities took steps to bring the perpetrators to justice.

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

The law prohibits discrimination based on race, color, gender, language, national origin, political or other opinion, or social status; however, in practice, the government did not effectively enforce these prohibitions.

Women.—Domestic violence, including spousal abuse and rape, was a pervasive social problem. A July World Bank study concluded that 88 percent of rural women and 69 percent of urban women think their husbands have the right to beat them. While women had recourse to the police and the courts, societal norms and limited infrastructure prevented many women from seeking legal redress, particularly in rural areas. The government began to prosecute offenders on a limited scale.

In October the government announced the establishment of a women's affairs ministry.

The new June 2004 penal code criminalized rape, but did not specifically address spousal rape. The government does not fully enforce the code due to lack of awareness of the law, lack of training, and lack of funds. Social mores continue to be a key constraint, particularly in the rural areas. It is difficult to prove rape because the country does not have appropriate laboratory facilities and rape kits. The government has taken limited action based on the penal code.

Social mores obstructed investigations and prosecutions in rape cases, and many women were not aware of their rights under the law, which led to widespread underreporting. Observers estimated that at least one thousand rapes occurred annually in Addis Ababa, but data based on official police reports counted only approximately 400 cases per year. The press continued to report regularly on rape cases, particularly when injury to minors resulted. Courts sentenced convicted rapists to 10 to 15 years' imprisonment, as prescribed by law. In 2004 the EWLA conducted research on the number of rapes committed and the number of rape convictions handed down; however, the results had not been released by year's end.

Although illegal, the abduction of women and girls as a form of marriage continued to be a widespread practice in several regions, including the Amhara, Oromiya, and Southern Nations, Nationalities, and Peoples regions, despite the government's attempts to combat the practice. Forced sexual relationships accompanied most marriages by abduction, and women often experienced physical abuse during the abduction. Many abducted girls married as early as the age of 7, despite the legal minimum age for marriage of 18. Abductions led to conflicts among families, communities, and ethnic groups. In cases of marriage by abduction, the perpetrator did not face punishment if the victim agreed to marry him (unless authorities annulled the

marriage); even after the conviction of a perpetrator, authorities often commuted the sentence if the victim married him. There were some signs of growing public awareness of the problems of attacks on women and early marriage.

The majority of girls undergo some form of female genital mutilation (FGM). Girls typically experienced clitoridectomies seven days after birth (consisting of an excision of the clitoris, often with partial labial excision, and faced infibulation (the most extreme and dangerous form of FGM) at the onset of puberty. According to a Ministry of Health Demographic and Health survey released during the year, the practice of FGM among all women had decreased from 80 to 74 percent, while support for the practice among women had dropped from 60 to 29 percent. In 2004 the new penal code criminalized the circumcision of any female by imprisonment of not less than 3 months or a fine of not less than \$58 (500 birr). Likewise, infibulation of the genitals is punishable with imprisonment of 5 to 10 years.

The government took some measures to help eradicate FGM. It worked to discourage the practice through education in public schools and broader mass media campaigns. In July 2004 the Hamar District women's affairs bureau removed a district official from office for forcing his wife to undergo FGM. In 2004 the South Omo Zone Mobilization and Social Affairs Department Deputy Head reported that committees to eradicate harmful traditional practices were established in 197 localities through South Omo Zone. In 2004 Eastern Harerge Zone police arrested four women who had allegedly circumcised 62 girls in a single day; local residents allegedly tipped off the police following an intensive media campaign on the harmful effects of circumcision.

Prostitution was legal for persons over 18 but it remained a problem. Pimping and benefiting from prostitution were illegal. Persons exploited in prostitution routinely reported that poverty was the principal underlying cause.

The EWLA and the International Organization for Migration (IOM) reported that many female workers who traveled to the Middle East as industrial and domestic workers faced abuse (see section 5, Trafficking).

Sexual harassment was widespread. The penal code prescribes 1½ to 2 years' imprisonment; however, sexual harassment-related laws were not fully enforced.

Although the law provides for equality of all persons, the government did not effectively enforce these protections. The law sets the legal marriage age for girls and boys at 18; elevates civil law above customary and religious law; allows for the legal sharing of property by unmarried couples who live together for at least five years; eliminates family arbitrators as a means of settling marital disputes in lieu of the court system; allows for the joint administration of common marital property; requires the courts to take into account the situation of children or the weakest member of the family in the event of divorce or separation; and imposes a six-month waiting period on women seeking to remarry following divorce or the death of a spouse. However, regional councils had authority to determine family law for their respective regions. Four regions have established their own family law: Amhara, Tigray, Oromiya, and Addis Ababa. Regional laws are more specific to the region than are federal laws. Regional laws are not uniformly enforced. By law, they cannot conflict with the national constitution.

In July 2004, at the urging of a group of activists on women's issues, the head of the NEB publicly endorsed the candidacies of women for parliament.

Discrimination against women was most acute in rural areas, where 85 percent of the population lived. The law contains discriminatory regulations, such as the recognition of the husband as the legal head of the family and the sole guardian of children over five years old. Authorities did not consider domestic violence a serious justification for granting a divorce. There was only limited juridical recognition of common law marriage. Irrespective of the number of years the marriage existed, the number of children raised, and joint property, the law entitled women to only three months' financial support if the common law relationship ended. A husband had no obligation to provide financial assistance to his family and, as a result, women and children sometimes faced abandonment when there was a problem in the marriage. The law states that any property owned before marriage belongs to the spouse that had it. Any property gained during marriage is shared equally, although a wife does not have the right to inherit her deceased husband's share. Even with stronger formal laws, most rural residents continued to apply customary law in economic and social relationships.

All land belonged to the government. Although women could obtain government leases to land, and the government had an explicit policy to provide equal access for women to land, rural communities rarely enforced this policy. The EWLA reported that, in nearly all regions, women did not have access to land, except through marriage. However, when the husband dies, other family members often take the land from the wife.

In urban areas, women had fewer employment opportunities than men, and the jobs available did not provide equal pay for equal work.

Children.—The government supported efforts by domestic and international NGOs that focused on children's social, health, and legal issues, despite its limited ability to provide improved health care, basic education, or child protection.

Education is compulsory and universal through grade six, though approximately 20 percent of school-age children do not attend school. By law, primary education is tuition-free. There were not enough schools to accommodate the country's youth, particularly in rural areas, and the cost of uniforms and school supplies was prohibitive for many families. Approximately 74 percent of male primary school-age children and 59 percent of female primary school-age children attended school; in Addis Ababa girls' attendance was slightly higher. Government reports showed that 29 percent of the children who attended school left the system before they reached the second grade, and only 22 percent of children who began first grade completed eighth grade.

Child abuse was a problem. Members of an NGO staffed 10 child protection units in Addis Ababa's police stations to protect the rights of juvenile delinquents and juvenile victims of crime. Some police officers completed training on procedures for handling cases of child abuse and juvenile delinquency.

Societal abuse of young girls continued to be a problem. FGM was performed on the majority of girls (see section 5, Women). Other harmful traditional practices included uvulectomy, milk-teeth extraction, early marriage, marriage by abduction, and food and work prohibitions.

In the Afar Region in the East, older men continued to marry young girls, but media accounts suggested that this traditional practice continued to face greater scrutiny and criticism. Local NGOs, such as the Kembatta Women's Self-Help Center and the Tigray Women's Association, also influenced societal attitudes toward harmful traditional practices and early marriage in their areas by raising awareness of the problems. During the year regional governments in Amhara and Tigray instituted programs to educate young women on the issues of early marriage.

Pregnancy at an early age often led to obstetric fistulae and permanent incontinence. Treatment for fistulae was available at only one hospital, the Addis Ababa Fistula Hospital, which annually performed more than one thousand fistula operations. It estimated that for every successful operation performed, 10 other young women needed the treatment but did not receive it. The maternal mortality rate was extremely high, partly due to food taboos for pregnant women, poverty, early marriage, and birth complications related to FGM, particularly infibulation.

According to international NGOs, child prostitution was a growing problem, particularly in urban areas. According to an NGO report, 60 percent of persons exploited in prostitution were between the ages of 16 and 25. Underage girls worked as hotel workers, barmaids, and prostitutes in resort towns and rural truck stops. Pervasive poverty, migration to urban centers, early marriage, HIV/AIDS and sexually transmitted diseases, and limited educational and job opportunities aggravated the sexual exploitation of children. A few NGOs aided child victims, including the Forum on Street Children-Ethiopia, which provided children forced into prostitution or sexual exploitation with shelter, protection, and return to their families.

There were occasional reports that children were trafficked out of the country, including unconfirmed reports that children from the south were transported into Kenya by traffickers operating adoption rings, and adopted as other nationalities (see section 5, Trafficking).

Child labor remained a serious problem (see section 6.d.).

The government estimated the number of street children totaled 150 to 200 thousand, with approximately 50 to 60 thousand street children in Addis Ababa. The UN Children's Fund (UNICEF) estimated there were 600 thousand street children in the country and more than 100 thousand in the capital. UNICEF believed the problem was exacerbated because of families' inability to support children due to parental illness and decreased household income. These children begged, sometimes as part of a gang, or worked in the informal sector (see section 6.d.). Government and privately run orphanages were unable to handle the number of street children, and older children often abused younger ones. Due to severe resource constraints, hospitals and orphanages often overlooked or neglected abandoned infants. "Handlers" sometimes maimed or blinded children to raise their earnings from begging.

Trafficking in Persons.—Ethiopia was a source country for men, women, and children trafficked for forced labor and sexual exploitation. Young Ethiopian women were trafficked to Djibouti and the Middle East, particularly Lebanon, the United Arab Emirates, Saudi Arabia, and Bahrain for involuntary domestic labor. A small percentage were trafficked for sexual exploitation to Europe via Lebanon. Small

numbers of men were trafficked to Saudi Arabia and the Gulf states for exploitation as low-skilled laborers. Both children and adults were trafficked internally from rural to urban areas for domestic labor and, to a lesser extent, for commercial sexual exploitation and forced labor, such as street vending. NGOs estimated that international trafficking annually involved between 20 and 25 thousand victims.

The government does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The law provides penalties of up to 20 years imprisonment and a fine of \$1,150 (10 thousand birr) for trafficking of women and children. Despite arrests of suspected traffickers in 2004, there were no successful prosecutions of traffickers by year's end. The Ministry of Labor and Social Affairs, in concert with local police, monitored trafficking in persons, while the Ministry of Justice enforced governmental law. The government assisted with international trafficking investigations.

Training programs for police officers on the criminal aspects of trafficking continued during the year. These institutions had limited resources and jurisdiction to protect or intervene in cases of prosecution of offending employers.

NGOs reported that houses of prostitution recruited impoverished girls as young as age 11 and kept them uninformed of the risks of HIV/AIDS infection and other sexually transmitted diseases. A 2003 Family Health International Report indicated that customers particularly sought younger girls because customers believed they were free of sexually transmitted diseases.

The International Organization for Migration (IOM) reported in 2004 that trafficking was "increasing at an alarming rate." A 2003 study by a foreign government on the problem of internal trafficking of women and children confirmed that the problem was pervasive. The overwhelming majority of respondents confirmed that traffickers, typically unorganized petty criminals, lured women and children from rural areas to Addis Ababa and other urban centers with false promises of employment. Of the 459 respondents, 46 percent were illiterate and 49 percent had completed no more than an eighth-grade education. Upon arrival at their new destinations, 54 percent worked as domestic servants, but that number dropped to 9 percent as the trafficked women and children took jobs in bars, became prostitutes, or begged on the street.

There were no reports that government officials participated in, facilitated, or condoned trafficking.

Although illegal, the abduction of women and girls as a form of marriage was still a widespread practice in the Oromiya, Amhara, and Southern Nations, Nationalities, and Peoples regions (see section 5, Women).

Private entities arranged for overseas work and, as a result, traffickers sent women to Middle Eastern countries—particularly Lebanon, Saudi Arabia, Bahrain, and the United Arab Emirates—as domestic or industrial workers. These women typically were trafficked through Djibouti, Yemen, and Syria. The chief of the investigation and detention center in Lebanon reported in October that 30 thousand Ethiopian women worked in Beirut, the vast majority of whom were trafficked. The government also began registering persons seeking employment overseas. Approximately 50 percent of these women were not able to return legally to their home country.

The government provided little assistance to trafficked victims who returned to the country. EWLA provided limited legal assistance to such victims. The federal police's Women's Affairs Bureau, in collaboration with the media, continued to implement a public awareness program on the dangers of migrating to Middle Eastern countries. The Children, Youth, and Family Affairs Department of the Ministry of Labor and Social Affairs chaired the National Steering Committee Against Sexual Exploitation of Children. There were some government initiatives during the year to combat trafficking, including government consultation with IOM. In August IOM published a brochure for distribution to young women on the dangers of domestic service overseas. The Ministry of Labor and Social Affairs continued to review the contracts of prospective domestic workers planning to work overseas and rejected contracts that did not appear satisfactory. Immigration officials at the airport also inspected the employment contracts of prospective workers traveling to the Middle East. The Ministry of Labor and Social Affairs had limited success in regulating employment agencies that sent migrant workers to Middle Eastern countries. Some illegal employment agencies escaped government scrutiny and continued to operate. The country's consulates in Beirut and Dubai continued to assist Ethiopian women trafficked to Lebanon and the United Arab Emirates.

Persons with Disabilities.—While the law mandates equal rights for persons with disabilities, the government had no established mechanisms to enforce these rights. Persons with minor disabilities sometimes complained of job discrimination. The government did not mandate access to buildings or provide services for persons with

disabilities. Although the law provides for rehabilitation and assistance to persons with physical and mental disabilities, the government devoted few resources to these purposes.

There were approximately six million persons with disabilities, according to local NGOs. Although there were an estimated 800 thousand persons with mental disabilities, there was only one mental hospital and only an estimated 10 psychiatrists in the country. The Ministry of Labor and Social Affairs was responsible for protecting the rights of the disabled.

National/Racial/Ethnic Minorities.—There were more than 80 ethnic groups living in the country, of which the Oromo was the largest, at 40 percent of the population. Although many groups influenced the political and cultural life of the country, Amharas and Tigrayans from the northern highlands played a dominant role. The federal system drew boundaries roughly along major ethnic group lines, and regional states had much greater control over their affairs than previously. Most political parties remained primarily ethnically based.

The military remained an ethnically diverse organization; however, members of the Tigrayan ethnic group dominated the senior officer corps. During the May elections and subsequent demonstrations, there were many reports of Tigrayan or Gambellan troops being used in Addis Ababa and other urban centers where the opposition was strong, and where officials did not consider Amhara members of the armed forces sufficiently reliable.

There were occasional reports that officials terminated the employment of teachers and other government workers if they were not of the dominant ethnic group in the region.

There were continued incidents of ethnic conflict during the year, particularly in the western, southern, and eastern areas. The OLF and the government engaged in many clashes. There were also clashes among ethnic groups in the Gambella, Somali, and Southern Nations, Nationalities, and Peoples regions.

Interethnic clashes resulted in hundreds of deaths during the year. EHRCO reported ethnic conflicts between Somalis and Oromos in East and West Hararghe Zones, and ethnic clashes between Gabras and Gujis in Borena Zone of the Oromiya Region. On February 22, armed ethnic Somali Ethiopian groups raided several Oromo villages and killed 18 persons, injured 31, burnt 103 huts, looted cattle, and destroyed property. Following the administrative transfer of several villages between the Oromiya and Somali regions after a December 2004 referendum, harassment and intimidation by Somalis of Oromos residing in Erer District caused the displacement of 760 persons.

EHRCO reported that on April 2, armed Somali tribesmen raided an Oromo village in Kurkur Kebele, Golo Oda District, and killed 14 persons, injured 10, and displaced 1,358 Oromos. An April 3 clash between Gabras and Gujis in Yabelo District, Borana Zone, Oromo Region, killed 24 persons. Intervention by the army stopped the clash from escalating, but fighting resumed on April 29, killing 19 individuals and displacing 30 thousand persons; 1,378 huts were also burned. On June 27, clashes between ethnic Somali and Oromo in Mieso and Doba districts of West Hararghe Zone resulted in 16 Oromos killed, 25 Oromos injured, and an unknown number of persons displaced.

EHRCO reported that on July 24 and 26, unidentified persons detonated hand grenades inside four hotels and a residence in the town of Jijiga, killing 5 persons and injuring 31. Police took suspects into custody and the case was under investigation at year's end. The federal high court in Addis Ababa continued to arraign and prosecute those formally charged with committing genocide and other war crimes, including extrajudicial killings, under the 1975–91 Derg regime (see section 1.e.).

On October 20, local media reported that two thousand farmers abandoned their homes in Gida-Kiramu village, East Wellega Zone, Oromiya Region and moved to nearby towns following beatings, arrests, and intimidation by local officials, reportedly for supporting the opposition CUD party. The population of Gida-Kiramu is primarily Amhara, while local officials are primarily Oromo, and the village had been the site of ethnic clashes in previous years. Following intervention by the regional government, most farmers returned to their homes.

Other Societal Abuses and Discrimination.—Homosexuality is illegal and punishable by imprisonment. Instances determined to be cruel, involving coercion, or involving a minor (age 13 to 16) are punishable by not less than 3 months or more than 5 years of incarceration. Where children under 13 years of age are involved, the law provides for imprisonment of 5 to 25 years. While society did not widely accept homosexuality, there were no reports of violence against homosexuals.

Societal discrimination against persons with HIV/AIDS continued during the year.

Section 6. Worker Rights

a. The Right of Association.—The law provides most workers with the right to form and join unions, and the government allowed this in practice. However, the law specifically excludes teachers and civil servants (including judges, prosecutors, and security service workers) from organizing unions. There was government interference in trade union activities during the year. According to the International Confederation of Free Trade Unions, many trade union leaders have been removed from their posts and/or forced to leave the country, while others have been sent to prison.

The minimum number of workers required to form a union was 20. While all unions had to be registered, the government retained the authority to cancel union registration. There were no reports that the government used this authority during the year. The law stipulates that a trade organization may not act in an overtly political manner. Approximately 300 thousand workers were union members.

Seasonal and part-time agricultural workers did not organize into labor unions. Compensation, benefits, and working conditions of seasonal workers were far below those of unionized permanent plantation employees.

Despite government recognition of the independent Ethiopian Teachers Association (ETA), authorities required all public school teachers to subsidize a separate government-created and controlled teacher's union (also called ETA) through mandatory withholding of \$0.23 (2 birr) from their monthly salaries.

In late 2003 the federal high court ruled that the government's ETA had no legal standing or claim on the property of the independent ETA, and that authorities should return the assets of the independent ETA and allow its offices to reopen. The government-controlled ETA appealed to the Supreme Court, which instructed the federal high court to reinvestigate the case. That investigation continued at year's end, and the high court's decision to recognize the independent ETA had not been implemented.

Complete government control of the government-sponsored Confederation of Ethiopian Trade Unions (CETU) executive committee continued throughout the year, as it had since its inception.

Although the law prohibits antiunion discrimination by employers against union members and organizers, unions reported that employers frequently fired union activists. Lawsuits alleging unlawful dismissal often took years to resolve because of case backlogs in the labor courts. According to labor leaders, a number of court cases in which workers were terminated for union activities were pending after four or five years. Employers found guilty of antiunion discrimination were required to reinstate workers fired for union activities and generally did so in practice.

b. The Right to Organize and Bargain Collectively.—The law protects the right of collective bargaining for most workers, and in practice the government allowed citizens to exercise this right freely. Labor experts estimated that collective bargaining agreements covered more than 90 percent of unionized workers. Representatives negotiated wages at the plant level. Unions in the formal industrial sector made some efforts to enforce labor regulations.

There are no export processing zones.

Although the law provides workers with the right to strike to protect their interests, it contains detailed provisions that make legal strike actions difficult to carry out, such as a minimum of 130 days advance notice before striking. There was one strike during the year, involving Dragados, a European road construction company. Striking workers returned to work, while the case remains pending in court. The law requires aggrieved workers to attempt reconciliation with employers before striking, and includes a lengthy dispute settlement process. These applied equally to an employer's right to lock out workers. A majority of the workers involved must support a strike for it to occur.

Workers nonetheless retain the right to strike without resorting to either of these options, provided they give at least 10 days notice to the other party and to the Ministry of Labor and Social Affairs, make efforts at reconciliation, and provide at least a 30-day warning in cases already before a court or labor relations board.

The law also prohibits strikes by workers who provide essential services, including air transport and urban bus service workers, electric power suppliers, gas station personnel, hospital and pharmacy personnel, firefighters, telecommunications personnel, and urban sanitary workers. Amendments to the 2003 Labor Proclamation narrowed the definition of essential services, giving workers in railways, the inter-urban transport services, banks, and postal services the right to strike.

The International Labor Organization (ILO) noted that labor disputes lasted for months or years.

The law prohibits retribution against strikers, but labor leaders stated that most workers were not convinced that the government would enforce this protection. Labor officials reported that, due to high unemployment and long delays in the hearing of labor cases, some workers were afraid to participate in strikes or other labor actions.

In June the government further amended the labor law, allowing one or more permanent labor relations boards in the regional states to decide on cases involving enterprises owned by the federal government. The amendment also allows ad hoc labor relations boards in the regions to fulfill the same purpose.

c. Prohibition of Forced or Compulsory Labor.—While the law prohibits forced or compulsory labor, including by children, there were reports such practices occurred (see sections 5 and 6.d.) Courts could order forced labor as a punitive measure.

d. Prohibition of Child Labor and Minimum Age for Employment.—There were laws against child labor; however, the government did not effectively implement these laws in practice and child labor remained a serious problem, both in urban and rural areas. Under the law, the minimum age for wage or salary employment is 14 years, which was consistent with the age for completing primary school; the minimum age for employment was not effectively enforced, however. Special provisions cover children between the ages of 14 and 18, including the prohibition of hazardous or night work. By law, children between the ages of 14 and 18 were not permitted to work more than 7 hours per day, work between the hours of 10 pm and 6 am, work on public holidays or rest days, or perform overtime work. The government defined hazardous work as work in factories or involving machinery with moving parts, or any work that could jeopardize a child's health.

The Ministry of Labor and Social Affairs is responsible for enforcing child labor laws, but it did not provide adequate resources and oversight. While the government made some effort to enforce these regulations within the formal industrial sector, social welfare activists, civic organizers, government officials, and employers agreed that child labor was pervasive throughout the country, particularly in agrarian areas and in the informal sector. In urban areas, many children worked in a variety of jobs, including shining shoes, sewing clothes, hustling passengers into cabs, working as porters, selling lottery tickets and other small items, and herding animals. In rural areas, children worked on family and commercial farms and as domestic laborers.

A 2001 ILO-funded survey on child labor found that 40 percent of children began working before the age of 6. It also found the average number of hours worked in a week by children ages 5 to 17 was 32.8 hours. Approximately 13 percent of boys and girls between the ages of 5 and 9 worked from 58 to 74 hours a week. More than two-thirds of all children surveyed were giving either all or part of their earnings to their parents or guardians. Reduced household income from poor crop harvests and children dropping out of school were two factors contributing to the increased incidence of child labor.

Child laborers often faced abuse. A 1999 study concluded that compared to non-working children, child workers faced twice as much physical and emotional abuse, five times as much sexual abuse, and eight times as much neglect. Among child workers surveyed, rapes occurred exclusively among child domestic laborers.

The government's definition of worst forms of child labor included prostitution and bonded labor. During the year there were reports of forced or bonded labor of children who had been trafficked from the Oromiya Region and the Southern Nations, Nationalities, and Peoples Region to other regions of the country to work as domestic servants (see section 5). Family members reportedly forced young girls into prostitution (see section 5).

e. Acceptable Conditions of Work.—There is no national minimum wage. However, some government institutions and public enterprises have set their own minimum wages. For example, public sector employees, the largest group of wage earners, earned a monthly minimum wage of approximately \$23 (200 birr); employees in the banking and insurance sector had a minimum monthly wage of \$27 (230 birr). According to the Office of the Study of Wages and Other Remuneration, these wages did not provide a decent standard of living for a worker and family. Consequently, most families in the wage sector required at least two wage earners to survive, which forced many children to leave school early. Only a small percentage of the population was involved in wage labor employment, which was concentrated largely in urban areas.

The law provides for a 48-hour legal workweek (with a 24-hour rest period), premium pay for overtime, and prohibition of excessive, compulsory overtime. Although the government did little to enforce the law, in practice most employees in the formal sector worked a 40-hour workweek.

The government, industry, and unions negotiated to set occupational health and safety standards; however, the inspection department of the Ministry of Labor and Social Affairs did not effectively enforce these standards, due to a lack of resources. A lack of detailed, sector-specific health and safety guidelines also inhibited enforcement. Workers had the right to remove themselves from dangerous situations without jeopardizing their employment; however, most workers feared losing their jobs if they were to do so.

GABON

Gabon is a republic dominated by a strong presidency and the Gabonese Democratic Party (PDG), which has remained in power since 1968. The population was 1.3 million. On November 27, PDG leader El Hadj Omar Bongo Ondimba, president since 1967, was reelected for a seven-year term in an election marred by irregularities. The civilian authorities generally maintained effective control of the security forces.

The country's human rights record remained poor, although there were improvements in several areas. An extreme disparity in wealth contributed to some of the following human rights problems:

- limited ability of citizens to change their government
- use of excessive force, including torture, on prisoners and detainees
- harsh prison conditions
- violent dispersal of demonstrations
- arbitrary arrest and detention
- an inefficient judiciary susceptible to government influence
- restrictions on the right of privacy
- restrictions on freedom of the press, association, and movement
- widespread harassment of refugees by security forces
- widespread government corruption
- violence and societal discrimination against women and noncitizen Africans
- trafficking in persons, particularly children
- forced labor and child labor

The government conducted an aggressive campaign during the year to combat 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.—Security forces killed persons during the year, and there were unconfirmed reports that police committed politically motivated killings.

For example, on November 29, security forces killed Gildas Mbina Boulingui. Opposition parties alleged Boulingui was targeted for his affiliation with the Union for Gabonese People (UPG). No investigation was conducted into the killing, and no further information was available at year's end.

On April 7, a taxi driver drowned after security forces restrained his rescuers at gun point. The driver, who was operating an unregistered taxi, had fled a police checkpoint to avoid paying a \$48 (24,000 CFA francs) bribe. He then collided with a tree and jumped into a lake. On April 4, the driver had paid a \$30 (15,000 CFA francs) bribe to police. The case generated widespread press criticism, and an investigation continued, but no action had been taken against responsible police by year's end.

In May security forces killed two men without explanation. Protests from family members led to the arrest of the responsible officers, who were awaiting trial at year's end. No further information was available.

Ritualistic killings occurred. In February the bodies of two boys bearing signs of such a death were found in Libreville. The government did not criticize the practice and took no action in the case.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the constitution prohibits such practices, security forces sometimes beat or tortured prisoners and detainees to extract confessions. Unconfirmed reports from

the African immigrant community asserted that police and soldiers occasionally beat noncitizen Africans during operations to round up and deport illegal immigrants. During the year, the UN High Commission for Refugees (UNHCR) confirmed that it received reports from its regional offices that security forces continued to harass and extort refugees.

Unlike in the previous year, there were no reports that police raped women in their custody.

There continued to be reports that practitioners of certain traditional indigenous religions inflicted bodily harm on other persons.

Prison and Detention Center Conditions.—Prisons were overcrowded and conditions were harsh. Food, sanitation, and ventilation were poor, and medical care was almost nonexistent.

There were no known visits by human rights monitors to prisons during the year; however, there also were no reports that the government impeded such visits.

d. Arbitrary Arrest or Detention.—The constitution prohibits arbitrary arrest and detention, but the government did not always observe these prohibitions.

Role of the Police and Security Apparatus.—The national police, under the interior ministry, and the gendarmerie, under the defense ministry, were responsible for domestic law enforcement and public security; the gendarmerie was also responsible for setting up checkpoints. Elements of the armed forces and the Republican Guard, an elite, heavily armed unit that protects the president, sometimes performed internal security functions; both were subordinate to the defense ministry. The police were inefficient, and corruption was a serious problem. Security forces often used bribes at checkpoints to supplement their salaries (see section 1.a.). The Inspector General's Office is responsible for investigating police abuse; however, it took no known action.

Arrest and Detention.—The law requires arrest warrants based on sufficient evidence and issued by a duly authorized official; however, security forces frequently disregarded this provision. The law provides up to 48 hours for initial detention, during which police must charge a detainee before a judge, but police rarely respected this timetable. Charges often were not filed expeditiously, and persons were detained arbitrarily, sometimes for long periods. Bail may be set at arraignments if further investigation is required. Detainees were allowed prompt access to a lawyer and, if indigent, to one provided by the state.

Police arbitrarily arrested journalists, demonstrators, opposition members, refugees, and a labor leader during the year (see sections 2.a., 2.b., 2.d., and 6.b.).

Members of the security forces frequently detained individuals at roadblocks under the guise of checking vehicle registration and identity papers. Security forces frequently used such operations to extort money (see section 1.a.).

Pretrial detention, limited to six months for a misdemeanor and to one year for a felony charge, may be extended for six months by the examining magistrate. Pretrial detainees have the right to free access to their attorneys; this right was generally respected. Detainees also have the right to an expeditious trial, but overburdened dockets resulted in prolonged pretrial detention. Approximately 40 percent of persons in custody were pretrial detainees.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, the judiciary remained susceptible to government influence. The president appoints and can dismiss judges through the Ministry of Justice, to which the judiciary is responsible. The judiciary was subject to political influence and inefficient.

The judicial system includes regular courts, a military tribunal, and a civilian high court of justice. The regular court system includes trial courts, appellate courts, and the Supreme Court. The constitutional court is a separate body charged with examining constitutional questions, including the certification of elections. The high court of justice is constituted by the government as required to consider matters of security.

Systemic resource and personnel shortages in the judiciary often contributed to prolonged pretrial detention (see section 1.d.).

Trial Procedures.—The constitution provides the right to a public trial and the right to legal counsel, and the government generally respected these rights. Nevertheless, a judge may deliver an immediate verdict of guilty at the initial hearing in a state security trial if the government presents sufficient evidence. Defendants are presumed innocent and have the right to be present, to confront witnesses against them, to present witnesses or evidence on their behalf, and to appeal; the government generally respected these rights.

Minor disputes may be taken to a local chief, particularly in rural areas, but the government did not recognize such decisions.

Political Prisoners.—On December 1, security forces arrested 14 opposition members who were participating in a demonstration to protest the November 27 reelection of President Bongo; the 14 were charged with vandalism and remained in detention at year's end (see section 2.b.).

Herve Patrick Opiangah, arrested in November 2004 when he led a protest demanding that the government recognize his political party, was sentenced in May to two years in jail on weapons charges. His supporters and family members claimed that the charges were fabricated and that he was detained for political reasons. Opiangah, who was released on parole prior to his sentencing, remained in jail at year's end.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, the government did not respect these prohibitions in practice. As part of criminal investigations, police may request search warrants from judges, which they obtained easily, sometimes after the fact. Unlike in the previous year, the government did not use search warrants to gain access to the homes of opposition figures and their families.

Security forces conducted warrantless searches for illegal immigrants and criminals using street stops and identity checks. Security forces also entered homes and arrested and detained refugees (see section 2.d.).

Authorities reportedly monitored private telephone conversations, personal mail, and the movements of citizens.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government generally did not respect these rights in practice. Few citizens criticized the government for fear of losing their jobs, and only a few opposition legislators in the National Assembly openly criticized the government. Journalists practiced self-censorship.

During the year President Bongo threatened to revoke the passports of citizens overseas who spoke against the government; he also demanded the names of such individuals from a foreign government.

The only daily newspaper was the government-affiliated *L'Union*. Approximately nine privately owned weekly or monthly newspapers represented independent views and those of various political parties, but most appeared irregularly due to financial constraints, or in some cases, government suspension of their publication licenses. All newspapers, including *L'Union*, criticized the government and political leaders of all parties, but not the president. Foreign newspapers and magazines were widely available.

The government owned and operated two radio stations that broadcast throughout the country. Much of their news coverage concerned the activities of government officials, although editorials sometimes criticized specific government policies or ministers. Seven privately owned radio stations were operating at year's end; most were apolitical. International radio stations broadcast locally.

The government owned and operated two television stations, RTG-1 and RTG-2. Four privately owned television stations transmitted eight hours per day. Satellite TV reception was available.

On December 1, the government briefly detained a foreign journalist from *AFP* and a local journalist from *Gabon News*, both of whom were covering police conduct during the dispersal of an opposition demonstration (see section 2.b.).

On December 21, police assaulted two journalists from Teleafrica and confiscated a camera. The two journalists were attempting to interview and film a small group of protesters in front of the presidential palace.

During the year a government official threatened an independent journalist who had provided balanced coverage of opposition figures during the election campaign and told him to stop such reports. The journalist reduced, but did not eliminate, his coverage of opposition figures.

The 2003 suspensions of satirical weeklies *Misamu* and *Sub-Version* and the bi-monthly newspaper *Sagaie* remained in effect.

The law stipulates that penalties for libel and other offenses include a one- to three-month publishing suspension for a first offense and a three- to six-month suspension for repeat offenses. Editors and authors of libelous articles can be jailed for two to six months and fined \$1 thousand to \$10 thousand (500 thousand to 5 million CFA francs). Libel can be either a criminal offense or a civil matter. The law authorizes the government to initiate criminal libel prosecution against persons for libeling elected government officials; it also authorizes the state to criminalize civil libel suits. The government did not use libel laws during the year.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, but security forces violently dispersed demonstrations and strikes during the year. The law requires that groups obtain permits for public gatherings in advance, but the government usually did not grant them.

During the election campaign, the government banned all marches by political groups; however, groups allied with the president were allowed to march.

On December 1, police used tear gas and batons to disperse supporters of opposition UPG candidate Pierre Mamboundou; 23 supporters and bystanders were arrested, including 14 opposition members, who were charged with vandalism and remained in detention at year's end.

On December 13, police used tear gas to disperse a demonstration by students from a technical school. One of the tear gas canisters started a fire that destroyed three homes and a bar. Security forces violently dispersed other demonstrations held before and after the election, which resulted in at least one death.

Opposition leader Herve Patrick Opiangah, arrested in November 2004 when he led a demonstration demanding that the government recognize his political party, was sentenced in May to two years in jail on weapons charges (see section 1.e.).

No investigation was conducted into the September 2004 forcible dispersion of a student demonstration in Mandji-Dibangwui village that resulted in one death and numerous injuries.

No action was taken against security forces who forcibly dispersed other demonstrations in 2004 or 2003.

Freedom of Association.—The law provides for freedom of association; however, the government did not always respect this right in practice. During the year several government employees were fired because of their association with or relationship to Zacharie Myboto, who founded an opposition party in April (see section 3).

c. Freedom of Religion.—The constitution provides for religious freedom, and the government generally respected this right in practice.

The Ministry of the Interior maintained an official registry of religious groups but did not register traditional religious groups. The government did not require religious groups to register but recommended that they do so to assemble with full constitutional protection.

The government has refused to register approximately 10 religious groups, including Jehovah's Witnesses. A government decision on the registration of Jehovah's Witnesses has been pending for several years. In practice, the government allows Jehovah's Witnesses to assemble, practice their religion, and to proselytize.

Some Protestant denominations alleged that the government television station accorded free broadcast time to the Catholic Church but not to minority religious groups. Others alleged that the armed forces favored Roman Catholics and Muslims in hiring and promotions.

Societal Abuses and Discrimination.—There was no notable Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2005 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—Although the law provides for these rights, the government frequently restricted them in practice. There were no legally mandated restrictions on internal movement, but police and gendarmes continued to stop travelers frequently to check identity, residence, registration documents, or to demand bribes (see sections 1.a. and 3). Members of the security forces harassed expatriate Africans working legally as merchants, service sector employees, and manual laborers. Some members of the security forces extorted bribes and demanded services with threats of confiscation of residency documents or imprisonment. Residency permits cost up to \$200 (100 thousand CFA francs), and first-time applicants were required to provide the cost of a one-way air ticket to their country of origin. In theory, but usually not in practice, the government refunds the cost of the air ticket when the individual departs the country permanently.

In September the president announced that the government would revoke the passport of anyone who criticized the government in press conferences abroad. There were numerous reports that authorities refused to issue without explanation passports for travel abroad. There also were reports of unreasonable delays in obtaining passports, despite a government commitment in 2003 to process passports within three days. The government intermittently enforced a regulation requiring married women to obtain their husbands' permission to travel abroad.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refu-

gees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government generally provided protection against *refoulement*, the return of persons to a country where they feared persecution; however, during the year the government attempted to repatriate forcibly a group of such refugees. The government granted refugee status or asylum and cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. However, refugees complained about widespread harassment, extortion, and detentions by security forces.

In June the government arrested and attempted to repatriate forcibly 42 Congolese refugees to the Republic of the Congo; however, the UNHCR intervened, and the 42 were not repatriated.

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; however, mismanagement and serious irregularities in the November 27 presidential election and the 2003 legislative elections limited this right in practice. A single party, the PDG, has remained in power since its creation by President Bongo Ondimba in 1968, and political choice remained limited.

The country is dominated by a strong presidency. While the legislature is not in session, the president can veto legislation, dissolve the national legislature, call new elections, and issue decrees that have the force of law. The legislature generally approved legislation presented to it by the president. The president appoints ministers of government and heads of parastatals.

Elections and Political Participation.—On November 27, President Bongo Ondimba, who has been president since 1967, was re-elected for another seven-year term in an election marred by irregularities, including incomplete and inaccurate electoral lists, abuse of government resources, and unequal access to the media. Opposition candidates also charged that the ruling party engaged in vote buying, multiple voting, and ballot stuffing. Bongo received approximately 79 percent of the vote; Pierre Mamboundou of the UPG party received approximately 14 percent, according to the National Electoral Commission.

In the 2003 senatorial elections, the PDG won a majority of the 91 seats. There were widespread reports of irregularities, and the elections were considered neither free nor fair. Municipal and regional government officials elect the senators, who serve six-year terms. All senators were either members of the PDG or of political parties linked to the PDG.

Opposition parties included the UPG and the Gabonese Progressive Party (PGP).

In April former public works minister Zacharie Myboto formed an opposition party, the Gabonese Union for Democracy and Development (GUDD). Myboto and his family were subsequently harassed, and government employees related to Myboto were dismissed from their jobs. The government has not recognized the GUDD; Myboto ran in the November presidential election as an independent.

At year's end 11 of 120 members of the National Assembly, 12 of 91 senators, and 5 of 43 government ministers were women.

Members of all major ethnic groups continued to occupy prominent positions; however, members of the president's Bateke ethnic group and other ethnic southerners held a disproportionately large number of key positions in the military and security forces. The general chief of staff, the minister of defense, the chief of the republican guard, and the minister of interior were from the same region as the president or from the same ethnic group.

Indigenous Pygmies rarely participated in the political process, and the government made only limited efforts to include them (see section 5).

Government Corruption and Transparency.—Official corruption was widespread, and there was extensive media coverage of police abuses, particularly at checkpoints; however, the anticorruption commission issued no reports and took no action against corrupt officials during the year.

The law does not provide public access to government information, and the government did not allow such access in practice.

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

A few local human rights nongovernmental organizations (NGOs) and human rights activists operated in the country without government restriction, investigating and publishing their findings. Government officials took no actions on the recommendations of such individuals.

In 2004 the vice-prime minister in charge of human rights released a white book that detailed past human rights violations in the country, including graphic pic-

tures. President Bongo wrote a supportive preface to the book, which sharply criticized the country's human rights record.

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

Although the law forbids discrimination based on national origin, race, gender, or opinion, the government did not enforce these provisions uniformly, and there was considerable discrimination against women, especially in domestic affairs. Security forces also discriminated against noncitizens. The government provided a lower level of health care and educational services to children of other African nationalities than it provided to citizens.

Women.—The law prohibits domestic violence; however, it was believed to be common, especially in rural areas. Police rarely intervened in such incidents, and women virtually never filed complaints with civil authorities.

Rape is against the law and carried a penalty of between 5 and 10 years' imprisonment; however, rape cases were seldom prosecuted. Only limited medical and legal assistance for rape victims was available.

Female genital mutilation (FGM) was believed to occur among the resident population of noncitizen Africans; however, there were no specific reports of such practices during the year.

Although the law prohibits prostitution, it was a problem.

There is no law that prohibits sexual harassment, and it was a problem. The government and NGOs reported cases of female domestic workers (often victims of child trafficking) who were sexually molested by employers.

The law provides that women have rights to equal access in education, business, and investment, but women continued to face considerable societal and legal discrimination, especially in rural areas. Women owned businesses and property, participated in politics, and worked throughout the government and the private sector.

By law, couples must stipulate at the time of marriage whether they intend to adhere to a monogamous or a polygynous relationship; polygynous marriages were more common. For monogamous married couples, a common property law provides for the equal distribution of assets after divorce. In a polygynous marriage, a husband is obligated to give all wives the same level of financial support, although he may marry additional wives without permission from his existing wives.

Wives who leave polygynous husbands received half of their existing support as a one-time payment. In inheritance cases, the husband's family must issue a written authorization before his widow can inherit property.

Common law marriage, which was accepted socially and practiced widely, afforded women no property rights.

A regulation requires that a woman obtain her husband's permission to travel abroad; this requirement was not enforced consistently.

Children.—The government publicly expressed its commitment to youth, provided 4 thousand academic scholarships during the year, and used oil revenues to build schools, pay teacher salaries, and promote education, even in rural areas. Nonetheless, the upkeep of schools and payment of teachers continued to decline. Education is compulsory until age 16 and generally was available through sixth grade. Approximately 78 percent of primary school-age children attended school, and less than half of secondary school-age children attended school. Secondary school attendance rates for immigrant children were lower, although public schools accepted immigrant children, and the government encouraged them to attend. Students were required to pay for books, uniforms, and other school supplies, which precluded numerous children from attending school. Despite low enrollment, a UN agency estimated that 64 percent of women and 78 percent of men were literate.

The country's infant mortality rate was 6 percent; at last report, approximately 16 percent of children had been vaccinated. International donors worked to improve the situation, and the government allocated some resources for vaccines and logistical support to administer them.

Children remained the responsibility of the extended family. There was little evidence of physical abuse of children, although there were occasional reports that family members sexually abused girls who had passed puberty. The law provides for protection against child labor, sexual and physical abuse, and the government prosecuted persons charged with child trafficking and child labor during the year (see sections 5, Trafficking, and 6.d.).

FGM was believed to occur among the resident population of noncitizen Africans (see section 5, Women).

Concerns about the problems facing the large community of children of noncitizen Africans persisted. Almost all enjoyed far less access to education and health care than did citizen children; some were victims of child trafficking and abuses (see sections 5, Trafficking, and 6.d.).

Child labor remained a serious problem (see section 6.d.).

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons, particularly women and children, were trafficked to the country. The 2004 antitrafficking law provides for prison sentences for traffickers of 5 to 15 years' imprisonment and fines from \$20 thousand (10 million CFA francs) to \$40 thousand (20 million CFA francs). During the year the government took aggressive steps to combat trafficking, and numerous traffickers were being prosecuted at year's end.

The police and the inter-ministerial committee, composed of representatives from the labor, justice, foreign affairs, and family ministries, were responsible for combating trafficking.

On January 25, security forces began a series of antitrafficking sweeps that resulted in the rescue of 60 victims, most of whom were children, and the detention of 7 traffickers—5 from Benin and 2 from Nigeria. The traffickers claimed the trafficking had occurred with the consent—and sometimes at the initiative—of the children's families. The victims, who were from Benin, Nigeria, Togo, and Ghana, were either reunited with their families or under the care of a local orphanage.

In June police arrested and jailed two women for trafficking two teenaged Togolese girls to serve as street vendors. The traffickers allegedly tortured the girls when they failed to make their daily sales quota and then sold them as wives. The traffickers remained in detention awaiting trial at year's end.

In July police sweeps targeting children working illegally in shops or on the street resulted in the rescue of more than 100 children, many of whom were believed to be trafficking victims. The children were from Benin, Nigeria, Niger, Togo, Mali, Ghana, and Guinea.

Children (especially girls), primarily from Benin and Togo, worked as domestic servants or in the informal commercial sector. Nigerian children, also victims of trafficking, worked in the informal commercial sector as mechanics. Trafficked children generally worked long hours, were subjected to physical abuse, received inadequate food, and received no wages or schooling. No statistics were available on the number of trafficking victims in the country, but estimates ranged from 3 thousand to 25 thousand.

There have been unconfirmed reports that some government officials employed trafficked foreign children as domestic workers, and that individual police and immigration officers were involved in facilitating child trafficking.

The UN Children's Fund (UNICEF) and the government sponsored a toll-free assistance hot line for child trafficking victims that provided 24-hour response assistance and arranged free transport to a victims' shelter. The hot line received approximately 50 calls a day, of which approximately 10 were related to trafficking.

A government-funded reception center offered protection for trafficking victims, including food, education, medical care, and repatriation assistance. A second center run by Carmelite nuns provided similar services for older girls and young women.

During the year the government conducted conferences and publicity "caravans" to educate the public about trafficking and the 2004 antitrafficking law. The NGO Association for the Defense of the Rights of Women and Children also launched an antitrafficking campaign during the year to target the immigrant community in Franceville, a rural mining center near the Congolese border.

An inter-ministerial committee comprised of representatives from the labor, justice, foreign affairs, and family ministries was involved in antitrafficking efforts. The government also cooperated with UNICEF and the International Labor Organization (ILO).

Persons with Disabilities.—There are no laws that prohibit discrimination against persons with disabilities or provide for access to buildings or services; however, there were no reports of official discrimination against persons with disabilities. There was some societal discrimination against persons with disabilities, and employment opportunities and treatment facilities were limited.

Indigenous People.—The Baka (Pygmies) are the earliest known inhabitants of the country. Several thousand Pygmies lived in large tracts of still-intact rain forest in the northeast. The law grants them the same civil rights as other citizens, but Pygmies remained largely independent of formal authority, keeping their own traditions, independent communities, and local decision-making structures. Pygmies did not participate in government-instituted programs that integrated many small rural villages into larger ones along major roads.

Pygmies suffered societal discrimination, often lived in extreme poverty, and did not have easy access to public services. There were no specific government programs or policies to assist Pygmies.

A 2001 NGO study of the Bukoya Pygmy population in the northeast found that most Pygmies lived in conditions tantamount to slavery, working on plantations for “Gabonese masters” for one plate of rice and a few cents per day. The NGO described the children born to Pygmy families in these situations as the “property” of the master. A typical family lived on 13 cents per day. According to the NGO, Pygmies who complained about their situation faced the possibility of being beaten.

Section 6. Worker Rights

a. The Right of Association.—The law places no restrictions on the right of association and recognizes the right of citizens to form trade and labor unions; workers exercised this right in practice. The small private sector workforce was unionized. Unions must register with the government to be recognized officially, and registration was granted routinely.

While no laws specifically prohibit antiunion discrimination, the court may require employers who are found guilty by civil courts of having engaged in such discrimination to compensate employees.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without government interference, and the government protected this right in practice. The law provides for collective bargaining by industry, not by firm, and collectively bargained agreements set wages for whole industries. Labor and management met to negotiate differences, and the Ministry of Labor provided observers. Agreements negotiated by unions also applied to nonunion workers. There are no export processing zones.

The law provides for the right to strike after an eight-day notice advising that outside arbitration failed. Public sector employees’ right to strike is limited if a strike could jeopardize public safety. A 2003 social truce signed by the government, employers, and the country’s main trade unions provided for a three-year hiatus on strikes and the creation of a 35-member mediation committee to negotiate disputes; however, trade unions conducted numerous strikes during the year, charging that the government and employers had not complied with the social truce agreement. The law prohibits direct government action against individual strikers who abide by the arbitration and notification provisions.

In March a taxi driver De Menezess union held a brief strike in response to police extortion (see sections 1.a. and 1.f.). In April the union president Jean-Robert Menie was arrested, prosecuted, and sentenced to 60 days in prison for having an expired license. Menie was released when the government appealed its own conviction; the case remained pending at year’s end.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred, including by children (see sections 5 and 6.d.).

Some Pygmies reportedly lived in conditions tantamount to slavery (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—Although children below the age of 16 may not work without the express consent of the ministries of labor, education, and public health, child labor was a serious problem. The law stipulates fines and prison sentences for violations of the minimum age for work. The ministries rigorously enforced this law in urban areas with respect to citizen children, and few citizens under the age of 18 worked in the formal wage sector; however, child labor occurred in rural areas, where the law was seldom enforced.

An unknown number of children—primarily foreign—worked in marketplaces or performed domestic duties; many of these children were reportedly the victims of child trafficking (see section 5). Such children generally did not attend school, received only limited medical attention, and often were exploited by employers or foster families. Laws forbidding child labor theoretically extended protection to these children, but abuses often were not reported. A 2001 ILO study estimated that the number of economically active children between the ages of 10 and 14 years was 19 thousand to 20 thousand, but the actual number was probably considerably higher since most children worked in the informal sector.

The Ministry of Justice is responsible for implementing and enforcing child labor laws and regulations. Inspectors from the Ministry of Labor are responsible for receiving, investigating, and addressing child labor complaints. However, violations were not systematically addressed because the inspection force was inadequate, and complaints were not investigated routinely.

e. Acceptable Conditions of Work.—The monthly minimum wage was approximately \$120 (60 thousand CFA francs); government workers received an additional monthly allowance of \$40 (20 thousand CFA francs) per child. Government workers also received transportation, housing, and family benefits. The law does not man-

date housing or family benefits for private sector workers. The minimum wage did not provide a decent standard of living for a worker and family.

The Labor Code governs working conditions and benefits for all sectors and theoretically provides a broad range of protection to workers; however, the government sometimes did not respect these protections. According to law, representatives of labor, management, and the government were required to meet annually to examine economic and labor conditions and to recommend a minimum wage rate to the president, who then issues an annual decree. This procedure had not been followed since 1994, in part because the government was following a policy of wage austerity recommended by international financial institutions.

The Labor Code stipulates a 40-hour workweek with a minimum rest period of 48 consecutive hours. Employers must compensate workers for overtime work. All companies in the formal sector paid competitive wages and granted the fringe benefits required by law, including maternity leave and six weeks annual paid vacation.

The Ministry of Health established occupational health and safety standards but did not enforce or regulate them. The application of labor standards varied from company to company and between industries. In the formal sector, workers may remove themselves from dangerous work situations without fear of retribution.

The government reportedly did not enforce labor code provisions in sectors where the majority of the labor force was foreign. Foreign workers, both documented and undocumented, were obliged to work under substandard conditions; dismissed without notice or recourse; or mistreated physically, especially in the case of illegal aliens. Employers frequently required longer hours of work from noncitizen Africans and paid them less, often hiring on a short-term, casual basis to avoid paying taxes, social security contributions, and other benefits.

THE GAMBIA

The Gambia is a republic under multiparty democratic rule with a population of 1.6 million. President Alhaji Yahya A.J.J. Jammeh was re-elected for a five year term in 2001 in an election considered free and fair, despite some shortcomings. The main opposition coalition initially accepted the results of the presidential elections but later changed its position and boycotted the legislative elections in 2002. President Jammeh's political party, the Alliance for Patriotic Reorientation and Construction (APRC), won majorities in the National Assembly and most local councils. While civilian authorities generally maintained effective control of the security forces, there were a few instances in which elements of the security forces acted independently of government authority.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- security force harassment and mistreatment of detainees, prisoners, opposition members, a journalist, and in some cases, civilians
- arbitrary arrest and detention
- incommunicado detention and prolonged pretrial detention
- denial of due process
- infringement of privacy rights
- restrictions on freedom of speech and press
- violence and discrimination against women
- female genital mutilation (FGM)
- child labor
- 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 that the government or its agents committed arbitrary or unlawful killings.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were reports that security forces, notably soldiers acting outside official controls, beat persons and mistreated civilians.

The Indemnity Act continued to prevent victims from seeking redress in some cases. The army requested that victims file formal complaints so that cases could be investigated; however, there were no known prosecutions in civil courts of soldiers accused of beating or otherwise mistreating individuals during the year.

On October 4, the Police Intervention Unit (PIU)—a paramilitary wing of the police—severely beat workers at a hotel construction site for obstructing a police officer and allegedly helping to free a prisoner. Police arrested 7 of the workers and released them on bail 24 hours later. No trial had been scheduled by year's end.

There were no developments in the following 2004 cases: the January shooting by soldiers of a driver at a military checkpoint; the June beating by soldiers; the October beating of a young woman by a soldier; and the October shooting of a motorist by a soldier escorting the vice president's convoy.

There were unsubstantiated claims by opposition members that the government continued to conduct training for vigilante groups. These groups, also known as "green boys," were suspected of involvement in past human rights offenses.

Prison and Detention Center Conditions.—Prison conditions at Mile 2, Janjangbureh, and Jeshwang prisons generally met international standards, and the government permitted visits by independent human rights observers. However, local jails were overcrowded, and inmates, including detainees awaiting trial, occasionally slept on the floor. Prison guards were reluctant to intervene in fights between prisoners, and prisoners were injured.

Political prisoners were not held separately from other prisoners.

The government permitted independent monitoring of prison conditions by local and international human rights groups.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, police and security forces at times arbitrarily arrested and detained citizens.

Role of Police and Security Apparatus.—The armed forces are responsible for external defense and report to the secretary of state (minister) for defense, a position held by the president. The police, under the secretary of state for the interior, are responsible for public security. The National Intelligence Agency (NIA), responsible for protecting state security, collecting intelligence, and conducting covert investigations, reports directly to the president. The police generally were corrupt and ineffective. On occasion police acted with impunity and defied court orders.

Arrest and Detention.—The law requires that authorities obtain a warrant before arresting a person; however, on occasion individuals were arrested without a warrant. Periods of detention generally ranged from a few hours to 72 hours, the legal limit after which detainees must be charged or released. There was a functioning bail system; however, on several occasions, the courts released accused offenders on bail, while the police or other law enforcement agencies rearrested the offenders upon their leaving the court. Detainees generally were permitted prompt access to family members and legal counsel; however, some detainees were held incommunicado during the year.

The government has not formally revoked military decrees enacted prior to the Constitution that give the NIA and the secretary of state for the interior broad power to detain individuals indefinitely without charge "in the interest of national security." These detention decrees appeared to be inconsistent with the constitution, but they have not been subject to judicial challenge. The government claimed that it no longer enforced these decrees; however, in some instances, there continued to be cases of detentions that exceeded the 72-hour limit beyond which detainees must be charged or released.

On January 10, the former imam of the Banjul Airport Mosque, Al-Haiba Hydara, was arrested for undisclosed reasons and detained at Janjangbureh prison for 20 days before being released on bail. Hydara was held incommunicado and a delegation of the Supreme Islamic Council that wanted to visit him in prison was refused access.

On January 11, police arrested Abdoulie Kujabi, former director general of the NIA, two of his brothers, and his sister in-law on corruption allegations. Police later released Kujabi and his family members without charge and dropped the allegations.

On March 2, the PIU arrested the former managing director of Gambia International Airlines for alleged financial misappropriation and released him without charge after three weeks.

A government official briefly detained a journalist during the year (see section 2.a.).

On June 28, Andrew Sylva, former managing director of the social security and housing finance corporation, was acquitted of perjury for lack of evidence. In 2004

Sylva had testified before the Anti-Corruption Commission of Inquiry that President Jammeh had taken a government-owned generator from a government-owned hotel to use at his private residence.

There were no developments in the November 2004 case of businessman Momodou Jobe who was set free on bail and re-arrested by the police as he left the courthouse.

During the year the government arrested and detained opposition leaders who publicly criticized or who expressed views in disagreement with the government. For example in November three National Alliance for Democracy and Development (NADD) leaders were detained on charges of sedition and unauthorized possession of a government document (see sections 1.e. and 2.a.). No international human rights organizations reportedly requested access to the detainees.

The slow pace of the justice system resulted in lengthy pretrial detention. Approximately 40 of Mile 2 Prison's 230 inmates were in pretrial detention, and some had been incarcerated for up to 9 years. During a visit to Mile 2 Prison in April, the chief justice ordered the release of five detainees who had been in pretrial detention from four to nine years.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, in practice the courts, especially at the lower levels, were corrupt and subject to executive branch pressure at times. Nevertheless, the courts demonstrated independence on several occasions, including in significant cases.

The judicial system is composed of the Supreme Court, the court of appeal, high courts, and eight magistrate courts. District chiefs presided over local tribunals at the district level.

Trial Procedures.—The law provides for a fair and public trial. Indigent defendants charged with murder or manslaughter have a right to an attorney provided at public expense. The prosecution prepared a case file, including testimonies and evidence and provided a copy for the defense. Defendants are presumed innocent, have the right to confront witnesses and evidence against them, present witnesses on their own behalf, have the right to an attorney at their own expense, and appeal judgment to a higher court. These rights were generally protected by the government.

The judicial system suffered from corruption, particularly at the lower levels, and from inefficiency at all levels. Cases continued to be delayed because the court system was overburdened. To alleviate the backlog and reduce the possibility of undue influence and corruption, the government continued to recruit judges and magistrates from other Commonwealth countries who share a similar legal system. The attorney general oversees the hiring of foreign judges on contract. The government reserves the right not to renew a judge's contract. Foreign judges were generally less susceptible to corruption and executive branch pressure. Despite these steps, corruption in the legal system persisted.

The judicial system recognizes customary, Shari'a (Islamic law), and general law. Customary law covers marriage and divorce for non-Muslims, inheritance, land tenure, tribal and clan leadership, and other traditional and social relations. Shari'a was observed primarily in Muslim marriage and divorce matters; it favored men in its provisions (see section 5). General law, following the British model, applied to felonies and misdemeanors in urban areas and to the formal business sector.

On June 23, Ousainou Darboe, a lawyer and leader of the opposition United Democratic Party (UDP) who was charged with the 2000 murder of ruling APRC party supporter Alieu Njio, was acquitted. The four persons arrested with him were also acquitted.

Political Prisoners.—During the year the government detained executive members of the NADD in connection with allegations of subversive activities and threats to national security. Reportedly no international human rights organizations requested access to the detainees, but they were allowed access to family members.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and although the government generally respected these prohibitions, there were some exceptions. The government has not repealed Decree 45, which abrogates constitutional safeguards against arbitrary search and permits search and seizure of property without due process. This decree formally remained in effect, pending a judicial finding that it is unconstitutional; however, in practice the government did not use it. In some instances security forces forcibly and without warrants entered homes to arrest citizens. In November three NADD members were arrested without warrants and held for questioning without charge for 72 hours.

Observers believed the government monitored citizens engaged in activities that it deemed objectionable.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and the press; however, the government limited these rights by intimidation and restrictive legislation. Journalists practiced a degree of self-censorship.

On occasion security forces detained persons who publicly criticized or who expressed views in disagreement with the government. For example in November two of the three NADD opposition leaders were charged with sedition for statements made in a press statement including a statement by one of the two referring to the president as a “brutal dictator.” The government published one newspaper, *The Gambia Daily*. The *Daily Observer*, although privately owned, tended to favor the government in its coverage. There were three other independent newspapers, including one published by an opposition political party. There was one independent weekly magazine.

During the year one government-owned and four private radio stations broadcast throughout the country. There were at least two independent radio stations. Local stations rebroadcast the BBC, Radio France Internationale, the Voice of America, and other foreign news reports, and all were available via short-wave radio. Both the government-owned GRTS television and foreign cable and satellite television channels were available in many parts of the country. The government allowed unrestricted access to satellite television, and residents who could afford it received independent news coverage by satellite dish or antenna.

The deterioration of the country’s media environment continued during the year. In October the government revoked the operating license of Senegalese-owned radio station Sud FM for allegedly broadcasting derogatory remarks regarding both the Senegalese and Gambian governments. Sud FM’s closure worsened the already strained relationship between the media and the government. The radio station remained closed at year’s end.

During most of the year government-owned television and radio gave very limited coverage to opposition activities, but some statements by opposition parliamentarians in the National Assembly were reported.

Unlike in the previous year, no journalists were killed or injured by unknown assailants.

Unlike in the previous year, there were no attacks or threats on the independent media.

There were fewer reports than in the previous year that the government harassed journalists and editors of newspapers that published articles it considered inaccurate or sensitive. However, in October a journalist with *The Independent* newspaper, Pa Modou Secka, was detained at Soma Police Station for more than four hours by an immigration officer who accused the journalist of trying to destroy the good image of the country. He was released without charge. Also in October the editor of *The Independent*, Musa Saidykhan, was reportedly questioned by authorities for several hours for security reasons.

There were no developments in the following 2004 cases: the April arson attack on the printing press of *The Independent* newspaper; the July detention and beating of Seedy Fanneh; the August arson attack on the home of a BBC stringer; and the December murder of Deyda Hydera, the editor and publisher of *The Point* newspaper.

Although the independent press practiced a degree of self-censorship, the press frequently voiced strong, direct criticism of the government, and opposition views regularly appeared in the independent press.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice; however, in November and December the police obstructed NADD’s ability to hold rallies in support of their detained leaders. Although permits were granted for the rallies, the police refused, allegedly for security reasons, the use of public address systems at the rallies.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. The AFPRC’s Decree 81 requires nongovernmental organizations (NGOs) to register with the National Advisory Council, which has the authority to deny, suspend, or cancel the right of any NGO to operate, including that of international NGOs.

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

Societal Abuses and Discrimination.—There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2005 *International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights but allows for “reasonable restrictions,” which the government at times enforced.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law did not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has established a system for providing such protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The constitution provides for the democratic elections of the president and National Assembly every five years. The APRC remained the dominant political party.

Elections and Political Participation.—International observers described the 2001 presidential electoral process as generally free and fair, despite some shortcomings. President Jammeh won approximately 53 percent of the vote. The opposition political parties initially conceded the elections but then accused the government of bribing voters and issuing threats, both explicit and veiled, against individuals and communities that did not support the incumbent. Observers agreed there probably were some irregularities in the registration process but on a much smaller scale than the opposition coalition alleged. The postelection period was marred when Jammeh fired more than 20 village heads and civil servants who had not publicly supported for him during the campaign or who had been accused of corruption or incompetence; security forces also arrested and detained many opposition supporters throughout the country.

The major opposition coalition boycotted the 2002 national assembly elections accusing the Independent Electoral Commission of allowing fraudulent voter registrations and mismanaging both the presidential and legislative elections. The boycott was criticized widely as unjustified and as an inappropriate response to the alleged fraud and left many of the opposition’s own candidates unfunded and unsupported during the elections. The APRC won the majority for the National Assembly. The People’s Democratic Organization for Independence and Socialism (PDOIS) won two seats and the National Reconciliation Party won one seat. The president appointed 4 members of his own party and 1 former opposition presidential candidate to the 48-member National Assembly.

On January 17, five of the country’s opposition parties formed an alliance to contest the 2006 presidential and 2007 National Assembly elections. Leaders of the National Democratic Action Movement, the National Reconciliation Party, the PDOIS, the PPP and the UDP signed the Memorandum of Understanding that established NADD.

The four members of the National Assembly who fell under the newly-formed NADD were required by a supreme court decision to vacate their seats in July and run in a special election. In September three of the four opponents won their seats back in a special election deemed by international observers to be generally free and fair. The assembly member who lost contested the vote in court.

The government arrested political leaders during the year (see section 1.d.).

There were 6 women in the 54-seat National Assembly; 3 were elected, 3 were appointed by the president. There were 4 women in the 15-member cabinet, including the vice president.

There were no statistics available on the percentage of minorities who compose the legislature or the cabinet. President Jammeh and some members of his administration were from the previously marginalized minority Jola ethnic group.

Government Corruption and Transparency.—Official corruption remained a serious problem despite government efforts to curb it.

On April 27, Lang Conteh, a former foreign exchange manager at the Central Bank of The Gambia, pleaded guilty to charges of defrauding the bank of \$7.72 mil-

lion (216 million dalasi). Conteh entered a plea bargain, was sentenced to one year in prison, and agreed to forfeit some of his properties to the state.

On March 21, the Commission of Inquiry, which the president established in 2004 to investigate the assets of all senior officials who served in the government during the past 10 years, submitted its report. The commission submitted a four-volume report detailing widespread instances of alleged tax evasion and fraud among high ranking public officials. A number of senior government officials, including cabinet ministers, subsequently lost their jobs and forfeited assets to the state. However, some officials who were sanctioned by the commission were reappointed to government positions after paying fines stipulated by the commission.

Also in July the special commission of inquiry established to investigate alleged corruption surrounding a \$3 million (85 million dalasi) fiber optic cable transaction by the national telecommunications company GAMTEL submitted its findings. The commission's reports were never published and no formal charges were filed, but two senior officials at the company subsequently lost their jobs. GAMTEL's managing director at the time of the transaction was dismissed from his position; however, he was reinstated a few months later.

The law does not provide for public access to government information. Under the Official Secrets Act, civil servants are not allowed to divulge information about their department or to speak to the press without prior clearance with their head of department. In some cases journalists from certain independent newspapers have been refused access to public events, apparently because certain government officials disapproved of their editorial stance.

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 somewhat cooperative and responsive to their views.

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

The constitution prohibits discrimination based on race, religion, sex, disability, language, or social status, and the government generally enforced these prohibitions.

Women.—Domestic violence, including spousal abuse, was a problem. It was reported occasionally, but its occurrence was believed to be common. Police considered these incidents to be domestic issues outside of their jurisdiction. There was no law prohibiting domestic violence; however, cases of domestic violence could be prosecuted under laws prohibiting rape, spousal rape, and assault. The penalty for rape is life in prison and it was enforced. Although the law against spousal rape was difficult to enforce effectively, as many did not consider spousal rape a crime and failed to report it.

The law does not prohibit FGM and the practice remained widespread and entrenched. Between 60 and 90 percent of women have undergone FGM. Approximately 7 of the 9 major ethnic groups practiced FGM at ages varying from shortly after birth until age 16. FGM was less frequent among the educated and urban segments of those groups. There were unconfirmed reports of incidences of health-related complications, including deaths, associated with the practice of FGM; however, no accurate statistics were available. The government publicly supported efforts to eradicate FGM and discouraged it through health education; however, authorities have not passed legislation against FGM, which was not considered a criminal act. President Jammeh stated that the government would not impose a ban on FGM but has spoken out against it publicly, and his administration worked to convince traditional village leaders to abandon the practice. Practitioners of FGM and other types of circumcision believed that Islam mandates it; however, at least one influential imam declared that Islam forbids such harmful customs. Several NGOs conducted public education programs to discourage the practice, and the National Assembly Select Committee on Women and Children also campaigned actively against FGM and other harmful traditional practices affecting the lives of women and children.

Prostitution is illegal but was a problem, especially in the tourist areas. The government expelled numerous foreign prostitutes. The 2003 Tourism Offences Act was passed to deal with increasing incidents of tourism-related offences, including sex tourism. The act prohibits child prostitution, trafficking, and pornography.

There were no laws against sexual harassment. Although individual instances have been noted, sexual harassment was not believed to be widespread.

Traditional views of women's roles resulted in extensive societal discrimination in education and employment. Employment in the formal sector was open to women

at the same salary rates as men. No statutory discrimination existed in other kinds of employment; however, women generally were employed in such pursuits as food vending or subsistence farming.

Shari'a law is applied in divorce and inheritance matters for Muslims, who make up more than 90 percent of the population. Women normally received a lower proportion of assets distributed through inheritance than did males. The appropriate church and the Office of the Attorney General settled Christian and civil marriage and divorce matters.

Marriages often were arranged and, depending on the ethnic group, polygamy was practiced. Women in polygamous unions have property and other rights arising from the marriage. They also have the option to divorce but not a legal right to approve or be notified in advance of subsequent marriages. The Women's Bureau, which is under the Office of the Vice President, oversees programs to ensure the legal rights of women. Active women's rights groups existed.

Children.—The government was committed to children's welfare. The Department of Education and the Department of Health and Social Welfare were the two most generously funded government departments; however, lack of resources limited state provision of both education and health services.

In June the government passed the Children's Act, a comprehensive piece of legislation designed to protect and promote the welfare of children and to curb abuses against children, such as trafficking in persons.

The law mandates free, compulsory primary education up to eight years of age, but the state of the educational infrastructure prevented effective compulsory education, and children still must pay school fees. During the year the government estimated that 75 percent of children were enrolled in primary schools. Another 15 percent were enrolled in the Islamic schools called "madrasas." Girls constituted approximately 51 percent of primary school students and roughly one-third of high school students. The enrollment of girls was low, particularly in rural areas where a combination of poverty and sociocultural factors influenced parents' decisions not to send girls to school. As part of the government's initiative to get girls to go to school, the government implemented a countrywide program to pay school fees for all girls.

Authorities generally intervened when cases of child abuse or mistreatment were brought to their attention; however, there was no societal pattern of abuse against children. Any person who has carnal knowledge of a girl under the age of 16 is guilty of a felony (except in the case of marriage, which can be as early as 12 years of age). Incest also is illegal. These laws generally were enforced. Serious cases of abuse and violence against children were subject to criminal penalties.

Trafficking of children for prostitution was a problem (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

The Child Protection Alliance (CPA), a consortium of various organizations (national and international) that promote the protection of children from abuse, conducted countrywide workshops for teachers on alternatives to corporal punishments and awareness campaigns for community and religious leaders on sexual exploitation of children. In August the CPA conducted a 3-day training course for 40 law enforcement officers on investigative and interviewing techniques to combat sexual abuse and exploitation of children. The course was a continuation of a similar training conducted for 30 security officers conducted in September 2004 in collaboration with the Dutch-based NGO, Terre des Hommes.

Trafficking in Persons.—Trafficking occurred, and the government considered it a serious problem. In June the government enacted the Children's Act, which explicitly prohibits trafficking in persons, particularly children; however, there were no prosecutions for trafficking by year's end.

The penalty for trafficking in children (anyone under the age of 18) is life in prison, along with a substantial monetary fine. Before the passing of the Children's Act, there were no laws that specifically prohibited trafficking in persons. Enforcement of the act is primarily the responsibility of the Tourism Security Unit, a unit of the national army created specifically to enhance security in the tourism sector and keep minors out of the resort areas. There were no prosecutions under this law by year's end.

The country was a source, transit point, and destination for trafficked persons. The number of persons, mostly children, trafficked for commercial sexual exploitation was small but growing.

In January 2004 a joint UN Children's Fund (UNICEF)-government study reported that children engaged in prostitution in the main tourist resort areas were predominantly underage, some as young as 12. The report stated that the country has become an attraction for suspected or convicted European pedophiles that en-

tered the country as tourists and committed their crimes against children with impunity. Victims of trafficking were children of both sexes, normally younger than 16 to 18 years old, and included both citizens and immigrants or refugees from Sierra Leone, Liberia, Senegal, and Guinea-Bissau. The foreign children were war migrants without proper family support.

Most trafficking victims were forced into prostitution and/or begging; a few became domestic servants. Trafficking victims mostly came from conflict-ravaged countries, such as Liberia and Sierra Leone. Victims from Senegal, Guinea Bissau, and Sierra Leone told CPA that foreign residents obtained permission from their home country families to employ them as bar waitresses or domestic maids. After their arrival the local employers informed them their duties entailed commercial sex work.

Some child prostitution victims stated they worked to support their families, or because they were orphans and their guardian/procurer supported them. The guardian/procurer often assumed the role of the "African uncle," allowing the children to live in his compound with their younger siblings or paying school fees on their behalf in return for their servitude.

There was no evidence of government involvement at any level in trafficking in persons.

The government had no established victim care and health facilities for trafficked persons. Although a shelter for trafficked children was completed, it did not open in November as scheduled. The government provided temporary shelter and access to medical and psychological services to reported victims of trafficking.

In July the government, in collaboration with foreign donors, organized the First Annual Conference on Best Practices to Combat the Trafficking of Children in The Gambia. The one-day conference brought together representatives of international organizations, policy makers, and civil society to analyze the extent of child trafficking in the country and to develop measures to eradicate the violation of children's rights. In 2004 the government created a multi-agency trafficking in persons taskforce, which consisted of representatives from the departments of immigration, police, national intelligence, justice, foreign affairs, social welfare, and trade and industry as well as from UNICEF, the National Assembly, and the CPA.

Persons with Disabilities.—There were no statutes or regulations requiring accessibility for persons with disabilities. No legal discrimination against persons with physical disabilities existed in employment, education, or other state services; however, some societal discrimination existed towards persons with disabilities. Persons with severe disabilities subsisted primarily through private charity. Persons with less severe disabilities were accepted fully in society, and they encountered little discrimination in employment for which they physically were capable. There were no laws to ensure access to buildings for persons with disabilities, and very few buildings in the country were specifically accessible to persons with disabilities.

Other Societal Abuses and Discrimination.—There was evidence of societal discrimination against persons infected with the HIV/AIDS virus. Stigma and discrimination hindered disclosure and led to rejection from partners and relatives. In some cases persons infected with HIV/AIDS were prevented from meeting visitors.

The government committed itself to protecting the rights of persons living with HIV/AIDS by developing a five-year National Strategic Plan that includes the provision of care, treatment, and support to persons living with, or affected by, HIV/AIDS.

Section 6. Worker Rights

a. The Right of Association.—The Labor Act, which applies to all workers except civil servants, specifies that workers are free to form associations, including trade unions, and workers exercised this right in practice. Unions must register to be recognized, and there were no cases where registration was denied to a union that applied for it. The act specifically prohibits police officers and military personnel, as well as other civil service employees, from forming unions. Approximately 20 percent of the work force was employed in the modern wage sector, where unions were most active.

In 2004 the International Confederation of Free Trade Unions reported that the government had not implemented the eight International Labor Organization (ILO) conventions known as "core labor rights" and criticized the government for prohibiting civil servants from forming unions. The government responded that it is updating the Labor Act to incorporate the ILO conventions; however, no new labor legislation was in place at year's end.

Employers may not fire or discriminate against members of registered unions for engaging in legal union activities, and the government intervened to assist workers who were fired or discriminated against by employers.

b. The Right to Organize and Bargain Collectively.—Unions were able to negotiate without government interference; however, in practice the unions lacked experience, organization, and professionalism, and often turned to the government for assistance in negotiations. The law allows workers to organize and bargain collectively, and although trade unions were small and fragmented, collective bargaining took place. Union members' wages, which generally exceeded legal minimums, were determined by collective bargaining, arbitration, or agreements reached between unions and management. The act also sets minimum contract standards for hiring, training, and terms of employment, and provides that contracts may not prohibit union membership.

The law authorizes strikes but also places restrictions on strikes by requiring unions to give the commissioner of labor 14 days' written notice before beginning an industrial action (28 days for essential services); given the restriction on strikes and weak trade unions, no strikes occurred during the year. The law specifically prohibits police officers and military personnel, as well as other civil service employees, from striking. Upon application by an employer to a court, the court may prohibit industrial action that is ruled to be in pursuit of a political objective. The court also may forbid action judged to be in breach of a collectively agreed procedure for settlement of industrial disputes. It prohibits retribution against strikers who comply with the law regulating strikes.

There is a government-established export-processing zone (EPZ) at the port of Banjul and the adjacent bonded warehouses. The labor code covers workers in the EPZs, and they were afforded the same rights as workers elsewhere in the economy.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The statutory minimum age for employment is 14 years; however, child labor was a problem. There was no effective compulsory education, and because of limited secondary school openings, most children completed formal education by the age of 14 and then began work. Child labor protection does not extend to youth performing customary chores on family farms or engaged in petty trading. In rural areas most children assisted their families in farming and housework. In urban areas many children worked as street vendors or taxi and bus assistants. There were a few instances of children begging on the street. The tourist industry stimulated a low, but growing level of child prostitution (see section 5). Employee labor cards, which include a person's age, were registered with the labor commissioner, who was authorized to enforce child labor laws; however, enforcement inspections rarely took place. The Department of Labor under the Department of State for Trade and Employment was responsible for implementing the provisions of the ILO Convention 182 on the worst forms of child labor; however, the government generally was ineffective in enforcing those provisions.

e. Acceptable Conditions of Work.—Minimum wages and working hours are established by law through six joint industrial councils, comprised of representatives from labor, management, and the government. The lowest minimum wage, according to law was approximately \$0.42 (12 dalasi) per day for unskilled labor, but in practice the minimum wage was approximately \$1.78 (50 dalasi). The national minimum wage did not provide a decent standard of living for a worker and family. The minimum wage law covered only 20 percent of the labor force, essentially those workers in the formal economic sector. A majority of workers were employed privately or were self-employed, often in agriculture. Most citizens did not live on a single worker's earnings and shared resources within extended families. The Department of Labor is responsible for enforcing the minimum wage and it did so when cases of underpayment were brought to its attention.

The basic legal workweek is 48 hours within a period not to exceed 6 consecutive days. Nationwide, the workweek included four eight-hour workdays and two four-hour workdays (Friday and Saturday). There are no limits on hours worked per week and no prohibition on excessive compulsory overtime. A 30-minute lunch break is mandated. Government employees are entitled to one month of paid annual leave after one year of service. Most government employees were not paid overtime. However, government workers holding temporary positions and private sector workers received overtime calculated per hour. Private sector employees received between 14 and 30 days of paid annual leave, depending on length of service.

The law specifies safety equipment that an employer must provide to employees working in designated occupations. The law also authorizes the Department of Labor to regulate factory health and safety, accident prevention, and dangerous trades, and to appoint inspectors to ensure compliance with safety standards. En-

forcement was inconsistent due to insufficient and inadequately trained staff. Workers may demand protective equipment and clothing for hazardous workplaces and have recourse to the labor department. The law provides that workers may refuse to work in dangerous situations without risking loss of employment; however, in practice workers who do so risk loss of employment.

The law protects foreign workers employed by the government; however, it only provides protection for privately employed foreigners if they have a current valid work permit. Legal foreign workers may join local unions.

GHANA

Ghana is a constitutional democracy with a strong presidency and a unicameral 230-seat parliament. The country's population is approximately 21 million. In December 2004 eight political parties contested parliamentary elections, and four parties, including the ruling New Patriotic Party (NPP), contested presidential elections. NPP candidate John Agyekum Kufuor was reelected president with 52.45 percent of the vote. Despite a few incidents of intimidation and minor irregularities, domestic and international observers judged the elections generally free and fair. While civilian authorities generally maintained effective control over security forces, there were some instances in which elements of the security forces acted independently of government authorities.

The government generally respected the human rights of its citizens and made significant improvements during the year; however, there were problems in several areas, including a sharp increase in incidents of vigilante justice. The following human rights problems were reported:

- police use of excessive force, which resulted in deaths
- vigilante justice
- harsh and life-threatening prison conditions
- police corruption and impunity
- arbitrary arrest and detention
- prolonged pretrial detention
- infringement on citizens' privacy rights
- arrest, detention, interrogation, and harassment of journalists
- forcible dispersal of demonstrations
- corruption in all branches of government
- violence against women and children
- female genital mutilation (FGM)
- societal discrimination against women, persons with disabilities, homosexuals, and persons with HIV/AIDS
- trafficking in women and children
- ethnic discrimination and politically and ethnically motivated violence
- child labor, including forced child labor

During the year the government took significant steps to improve human rights, including passage of an antihuman 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.—Unlike in the previous year, there were no reports that the government or its agents committed political killings; however, security force use of excessive force resulted in the deaths of criminal suspects and citizens during the year.

At year's end the trial of three security officers charged with the December 2004 suspected political killing of the regional chairman, Issa Mobilla of the opposition Convention People's Party (CPP) was ongoing. The CPP chairman died from abuse sustained in military custody, according to an autopsy report.

Security forces were responsible for several deaths during the year. On January 9, superior military officials reportedly ordered the fellow seamen of 25-year-old Ordinary Seaman Philip Kuekebey to beat him and leave him in a guardroom for 21 days without medical attention. Kuekebey subsequently died from his injuries. The military denies he was beaten. Kuekebey reportedly had been caught jumping a barracks wall when returning from celebrating a soccer game victory. The superiors

who ordered his torture were allegedly supporters of the rival team. According to military authorities, a medical inquiry determined that the deceased did not die as a result of torture but rather as a result of failure to take prescribed medicine. The Commission on Human Rights and Administrative Justice (CHRAJ) and the deceased's family disputed these findings since photographs of the body show wounds.

In May an elderly woman in Dormaa, Brong Ahafo Region, reportedly died after a policeman struck her in the chest with his elbow. The woman had objected when six policemen assaulted her son, including one officer who struck the boy with a gun barrel. No information regarding an investigation or disciplinary action against the officer was available at year's end.

On October 9, soldiers at the El-Wak Barracks in Accra reportedly beat and burned to death an accused thief. Military police continued to investigate the incident at year's end.

On March 30, robbers attempting to steal a car engine in the Koforidua area opened fire on police officers who confronted them. Police returned fire, and killed one and arrested another while two other suspects escaped.

Unlike in the previous year, political clashes did not result in deaths; however, such incidents resulted in injuries and property damage (see section 1.c.).

Investigations into the 2004 killings by opposing political party activists were inconclusive.

Despite calls by opposition National Democratic Congress (NDC) party members for an official inquiry into alleged security force abuses during the 2003 clashes between NPP and NDC supporters in Tamale, Northern Region, no judicial inquiry occurred by year's end; the government continued to deny the allegations.

A police investigation into the 2003 incident in which a bystander was killed when police officers fired warning shots to disperse a crowd was ongoing at year's end.

During the year chieftaincy disputes continued to result in deaths, injuries, and destruction of property (see section 5).

As in the previous year, there were a number of killings that resulted from disputes between indigenous locals and migrant herdsman. Joint military and police teams disarmed and removed Fulani herdsman in Volta, Eastern, and Upper West regions.

Deaths resulted during the year from vigilante-style instant justice by angry citizens and mobs on suspected criminals and suspected witches. Security forces sometimes intervened to save the lives of the intended victims, and government officials urged citizens to leave law enforcement to the police. However, security forces on occasion appeared to sanction vigilante justice. For example, on April 1, the police service commended and promoted a police constable who led motorists near Abofour to disarm a group of highway robbers. In the struggle, two of the robbers were killed.

On June 8, four men beat to death a 16-year-old student who was mistaken for a bag snatcher. The four were arraigned by the La District magistrate and were awaiting trial on remand at year's end.

On September 29, a mob beat a 38-year-old Accra man who had shot a former girlfriend and her female friend. The man later died from his injuries. Investigations remained inconclusive, and no arrests were made by year's end.

The father of a 16-year-old from Nsuaem, Western Region, who police denied killing during a mob attack in March 2004, petitioned the inspector general of police for an investigation into his son's death. The new inspector general of police referred the petition to the police legal directorate for advice.

Investigations were ongoing into the following 2003 cases of vigilante justice: the lynching of a Malian man and the mob killing of a fetish priest. Police could not identify the perpetrators.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there continued to be credible reports that police beat and abused suspects, prisoners, demonstrators, and other citizens. Security force use of torture resulted in at least one death during the year (see section 1.a.). Severe beatings of suspects in police custody reportedly occurred throughout the country but largely went unreported. In many cases, police denied allegations or claimed that force was justified.

On March 18, police officers allegedly beat the traditional ruler of the Mfantseman District who was wanted for theft.

On September 26, in Accra, police officers acting on orders of a superior reportedly stripped a teacher of his trousers and beat him with hockey sticks after the teacher

allegedly trespassed across a courtyard. The inspector general of police personally apologized to the victim and directed the police administration to pay his medical bills and otherwise compensate him. The police officer involved was admonished.

On October 21, a police officer in Sunyani allegedly fired shots at a taxi whose driver was evading them. One of the bullets lodged close to the spine of, a bystander along the road.

Forcible dispersion of demonstrators by security forces resulted in injuries (see section 2.b.).

Unlike in the previous year, there were no reports that police beat political party activists.

During the year the police officer who shot a taxi driver in 2004 for failing to stop was arrested.

There were no developments in other 2004 cases of police beatings. Investigations were ongoing in the June 2004 case involving police beatings of political party activists.

There were reports of inter- and intra-party clashes. In April, in Asawase, a dispute between the ruling NPP and opposition NDC parties became violent, resulting in injuries. In August a similar dispute in Odododiodoo, resulted in injuries and property destruction. In December some members of the NDC said intraparty rivals physically attacked them, and a number of party members resigned in protest.

NPP supporters beat a journalist during the year (see section 2.a.).

Authorities abandoned the trial of the four suspects involved in a 2003 bombing outside the residence of the regional NPP organizer in Ho, Volta Region.

Machomen (party thugs) and land guards (private security enforcers hired by citizens to settle private disputes and vendettas) caused injury and property damage during the year. The machomen were organized privately and operated outside the law. There were some allegations of police complicity with these extralegal security agents. Police denied any involvement and arrested a number of land guards, some of whom were prosecuted and jailed in Accra and Tema.

During the year the NPP's national organizer was secretly taped stating that he commanded up to 1,100 "action troopers" who could disrupt elections and intimidate voters. He later told media that these party supporters were only present at the polls to ensure fair proceedings.

In January 2004 the national organizer of the NDC said that all political parties in the country were guilty of using machomen to intimidate their opponents during election periods.

During the year the government tried 23 land guards and jailed those who were found guilty of harassing land developers in 2004.

Vigilante-style justice conducted by angry citizens and mobs against suspected criminals and witches resulted in deaths and injuries (see section 1.a.). For example, Sakalo villagers tried to humiliate a suspected livestock thief by tying him to a tree.

The 2003 case in which a mob severely beat four men who were falsely accused of theft was still under investigation at year's end.

Prison and Detention Center Conditions.—Prison conditions in most cases were harsh and sometimes life threatening, despite government efforts to improve them. Much of the prison population was held in buildings that were originally old colonial forts or abandoned public or military buildings, with poor ventilation and sanitation, dilapidated construction, and limited space. According to the 2004 Prisons Service Annual Report, approximately 11,700 prisoners were held in prisons designed to hold 6,500. During a visit to Winneba Central Prison during the year, CHRAJ found 45 prisoners occupying a room designed for 3. Medical facilities were inadequate, and the prisons supplied only the most basic medicines. Prisoners relied on families or outside organizations for additional food, medicine, and other necessities. A shortage of bedding and clothing for prisoners continued. Overcrowding contributed to a high prevalence of communicable diseases. Some suspects allegedly pled guilty to be removed from unsanitary police cells and sent to prison.

During the year the government took steps to improve prison conditions. For instance, the police service constructed toilets and added showers to the Sunyani police cell, and the government purchased \$6 million in vehicles and machinery for income-generating agricultural and industrial projects for inmates. In 2004 the prisons service opened a new prison at Yeji and improved sanitation facilities in more than 20 locations.

According to the prisons service report, 110 prisoners died in 2004 from diseases such as tuberculosis, AIDS, and anemia.

On March 28, a prisoner died in Kumasi Central Prison after fellow inmates tied him up and he stopped breathing.

In certain facilities female prisoners in police cells were only separated by a few feet and were within the reach of male prisoners. In the Accra Central police cells,

female prisoners were kept in a small vestibule, only separated from men by a gate. The law stipulates that regardless of the offense, female convicts should be tested for pregnancy upon incarceration, and that pregnant convicts should be held in a facility where their health needs could be met.

Some juveniles inflated their ages to avoid lengthy rehabilitation sentences in the Borstal Institute; however, the Department of Social Welfare and Prison Services collaborated to transfer any known juveniles in adult cells to juvenile correction centers.

Pretrial detainees were held with convicted prisoners.

During the year CHRAJ, Prisoners Rehabilitation and Welfare Action, and the Prison Ministry all visited prisons and police cells to monitor conditions.

d. Arbitrary Arrest or Detention.—The law provides for protection against arbitrary arrest and detention; however, the government did not always observe these prohibitions.

Role of the Police and Security Apparatus.—The police, under the jurisdiction of an eight-member Police Council, are responsible for maintaining law and order. The military continued to participate in law enforcement activities during the year. A separate entity, the Bureau of National Investigations, handles cases considered critical to state security and answers directly to the executive branch.

The police maintained specialized units for homicide, forensics, domestic violence, visa fraud, narcotics, and cybercrimes in Accra. However, there were significant barriers to extending such services nationwide, including a lack of office accommodation, police vehicles, and equipment outside of Accra.

The police service came under repeated criticism following incidents of police brutality, corruption, and negligence. Impunity remained a problem. Delays in prosecuting suspects, rumors of police collaboration with criminals, and the widespread perception of police ineptitude contributed to an increase in vigilante justice during the year. There were also credible reports that police extorted money from local businesses by acting as private debt collectors and by arresting citizens in exchange for bribes from detainees' disgruntled business associates.

Government officials publicly stated that the government's zero tolerance for corruption policy applied to police and other security officials; however, a July public opinion survey by the Ghana Integrity Initiative, the local chapter of Transparency International, found the police to be the public institution most frequently perceived as corrupt (77 percent of respondents).

The 30-person Police Intelligence and Professional Standards Unit (PIPS) investigated human rights abuses and police misconduct. During the year PIPS received 247 complaints and petitions, compared with 590 in 2004. There were 79 complaints related to harassment, unlawful arrest, and detention with human rights violations, compared with 48 in 2004 and 22 in 2003.

In July the newly appointed Inspector General warned police officials that incidents of misconduct would be punished, and the government took a few steps to punish offenders. On October 23, the police administration disciplined eight officers: four for allegedly using a police vehicle to haul lumber, two for allegedly permitting illegal timber operations, and two for misconduct related to selection for a peace-keeping mission. The police also dismissed a constable for extorting \$40 (363,320 cedis) from a foreign couple by threatening their arrest.

From July 14 to October 28, the government allowed trainers from a foreign government to put 30 senior police officers through a 14-week basic police skills course, which included modules on appropriate use of force, international human rights standards, trafficking in persons, and domestic violence.

Arrest and Detention.—The law provides that an individual detained should be informed immediately, in a language that the detained person understands, of the reasons for the detention, and of his or her right to a lawyer and an interpreter at state expense. The law requires judicial warrants for arrest and provides for arraignment within 48 hours. The law requires that a detainee who has not been tried within a reasonable time be released either unconditionally or subject to conditions necessary to ensure that the person appear in court at a later date. The law also provides for bail. In practice, however, many abuses of these rights occurred, including detention without charge for periods longer than 48 hours, failure to obtain a warrant for arrest, and remand of prisoners into investigative custody for indefinite periods by renewing warrants or by simply allowing them to lapse.

On August 29, the Commonwealth Human Rights Initiative criticized the police for routinely detaining persons for more than 48 hours without a warrant signed by a magistrate. A 2003 Center for Democratic Development (CDD) survey found that 46 percent of the persons arrested were not informed of the charges against them, 51 percent were not read their rights, 67 percent reported they were not given

the opportunity to contact a lawyer, and 44 percent believed they were presumed guilty from the onset.

At times persons were detained for trivial offenses or based on unsubstantiated accusations such as insulting behavior, petty stealing, and disturbing the public peace. Authorities routinely failed to notify prisoners' families of their incarceration; such information often was obtained only by chance. The court has unlimited discretion to set bail, which was often prohibitively high. The court may refuse to release prisoners on bail and instead remand them without charge for an indefinite period, subject to weekly review by judicial authorities. On occasion, police also demanded money from suspects as a precondition for their release on bail.

Security forces used checkpoints and mass arrests while searching for criminals (see section 2.d.).

Lengthy pretrial detention was a serious problem. The Prison Service's 2004 Annual Report reported that of 18,866 admissions, 10,709 (57 percent) were on remand while the remaining 8,157 were convicted. In October 2004 the attorney general announced a nationwide review of all cases on remand; however, no progress was made in reducing that number during the year. The chief justice and appellate judges characterized the situation as a grave injustice, particularly since some detainees had been remanded for traffic and other minor offenses. Detainees sometimes served more time in remand cells than the allotted time for the crime committed. During 2004 inspections of prison facilities, the director general of prisons met numerous remand prisoners who had been detained for up to 10 years without trial.

There were no further developments in the April 2004 remand of 34 persons, including juveniles and several chiefs, who were detained for more than 48 hours.

During the year judicial officials continued to implement procedures for voluntary, court-facilitated alternate dispute resolution (ADR) for settling civil disputes. Trained ADR judges and lawyers mediated some cases pending before the Fast track/automated courts in July; however, most cases were still pending resolution at year's end.

Amnesty.—On March 6, President Kufuor granted amnesty to 1,317 prisoners, including two opposition leaders who were involved in scandals under the former Rawlings regime.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the judiciary was inefficient and subject to influence and corruption.

On September 29, addressing judicial inefficiency the chief justice noted that one judge had adjourned three cases 96, 120, and 127 times, respectively. In August 2004 the chief justice noted that some judges had not heard a single case or written a decision all year. A 2003 report adopted by the Parliamentary Select Committee on the Judiciary included accounts of extortion; misuse of remand, bail, and contempt of court charges for extortion; and acceptance of gifts or money in exchange for expedited or postponed cases, or for losing records.

During the year the government took steps to address these problems. In January new high court rules to shorten trials took effect and included the establishment of a commercial court. In July the chief justice inaugurated a National Center for Arbitrators to train judges and other officials in ADR procedures to reduce court backlogs. Improved information technology resulted in an increase in cases handled by the fast track high courts from 7,378 in 2004 to 10,111 during the year. The chief justice also adopted a code of ethics and issued two annual reports in his continuing campaign to increase transparency, curb corruption, and improve efficiency.

The country also had a judicial complaints unit, headed by a retired supreme court judge, to address public complaints. During the year the unit received 378 complaints, of which 80 were resolved, 103 were under investigation, and 195 were pending.

The law establishes two basic levels of courts, the lower courts and the superior courts. The lower courts consist of the circuit and district courts, which serve as juvenile courts and family tribunals. These courts try civil cases involving \$5,498 (50 million cedis) or less and criminal cases for offenses punishable by a fine not exceeding \$1,100 (10 million cedis) or imprisonment for a term not exceeding two years or both. The superior courts consist of the Supreme Court, the appeals court, the high court, the commercial court, regional tribunals, and fast track courts. Fast track courts hear cases to conclusion within six months. The majority of cases filed before the fast track court involved banking and commercial matters, human rights, and defamation.

Trial Procedures.—Defendants are presumed innocent, trials are public, and defendants have a right to be present, to be represented by an attorney (at public expense if necessary), and to cross-examine witnesses. Defendants and their attorneys

have access to government-held evidence relevant to their cases and have a right to appeal. In practice, authorities generally respected these safeguards.

The trial of the former head of the Ghana National Petroleum Corporation on charges of causing financial loss to the state was ongoing at year's end.

The trial of a retired military personnel arrested in 2004 for allegedly plotting a coup against the government was ongoing at year's end. The trial of two suspects accused of plotting a coup during the year also was ongoing at year's end.

The Chieftaincy Act gives village and other traditional chiefs power to mediate local matters and enforce customary tribal laws dealing with such matters as divorce, child custody, and property disputes. However, the authority of traditional rulers has steadily eroded because of a commensurate increase in the power of civil institutions, such as courts and district assemblies. In January 2004 chiefs in Tema participated in an ADR training program, which resulted in the recommendation that traditional councils have their own constitutions, apart from the Chieftaincy Act, to help institutionalize the role of local leaders in settling cases. The recommendation had not been implemented by year's end.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, in practice the government sometimes infringed on privacy rights. Although the law requires judicial search warrants, police seldom obtained them in practice.

Opposition party activists claimed the government engaged in surveillance and harassment of those it perceived to be opposed to the ruling party. Some civil society organizations expressed concerns that the government used surveillance, free of any oversight or regulation.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. However, opposition parties occasionally complained that state-owned media outlets minimized media coverage of opposition politicians. Individuals criticized the government publicly without reprisal.

More than 70 newspapers, including 3 state-owned dailies, and 2 state-owned weeklies, existed in the country. Two of the state-owned dailies had national circulation. Most newspapers circulated only in regional capitals, and many of the smaller privately owned newspapers were available only in Accra.

Accra had one state-owned and 17 privately owned FM radio stations, and there were approximately 11 state-owned and 100 privately owned FM stations across the country. Most stations were independent and aired a wide range of viewpoints. There was one state-owned television station that broadcast nationwide; three semi-privately owned television stations that broadcast in the Greater Accra, Eastern, and Ashanti regions; and three cable networks broadcasting in the Greater Accra Region, two of which also broadcast in Kumasi.

Foreign media operated freely in the country, including the BBC, Radio France International, and Voice of America. Foreign periodicals were available in major cities and circulated freely, even when they contained articles critical of the government.

The state-owned media reported extensively on charges of corruption or mismanagement by both current and past government officials. During the year the state-owned media gave some coverage to opposition politicians and printed occasional editorials critical of government policies. The opposition NDC claimed that government media denied it equal access and coverage on numerous occasions, and in practice the state-controlled media gave greater exposure to government officials.

During the year the police harassed and arrested journalists. For example, on July 22, police detained a television crew at the president's private residence because they were filming a nearby property allegedly purchased by the president in his son's name with funds obtained through abuse of office. The inspector general of police apologized for the incident the following day.

On October 14, police questioned and released two journalists who published articles questioning the president's travel expenses.

On April 21, NPP supporters allegedly beat a journalist who reported on election irregularities in Asawase, Ashanti Region.

On November 14, unknown assailants attacked a journalist in his car and smashed his windshield with a machete. Some media sources believe the journalist was attacked because he had been investigating allegations of corruption linked to the presidency.

In response to media criticism, government officials called for more media discipline and sometimes sued for libel. For example, in April 2004 the president's

brother sued a newspaper for libel and was awarded \$4,500 (400 million cedis). Other key political figures also sued media outlets for libel. The president's younger brother George Kufuor, minister for regional cooperation and NEPAD Kofi Konadu Apraku, and minister of works and housing Hackman Owusu Agyemang pursued libel suits against media outlets during the year.

There were no government restrictions on the Internet or on academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of peaceful assembly; however, at times the government restricted this right. The government does not require permits for demonstrations, but police can deny use of a particular route. During the year police arbitrarily cancelled demonstrations and forcibly dispersed demonstrations, which resulted in injuries.

In March Kumasi police sought a court order to postpone a well-publicized opposition street protest. Also in April, police cancelled a planned demonstration by media practitioners to protest the lack of development in the Ashanti Region; no explanation for the cancellation was provided.

On June 13, a joint team of military and police shot and wounded at least seven persons who were protesting surface mining in Prestea in the Western Region. Numerous persons were injured. Neither the police nor the government responded to requests for an investigation by year's end.

Also in June police used water cannons and batons to deter protestors from going to the president's office. Police used excessive force to disburse refugees in a demonstration (see 2.d.).

No action was taken against police and soldiers who assaulted and beat supporters of the ruling party for failing to obtain permission to demonstrate in the capitol in 2004.

There were no developments in the 2004 beatings of individuals by NPP party thugs.

Unlike in the previous year, no bans were imposed on outdoor political activities or demonstrations; however, the ban on campus demonstrations remained in effect during the year, although it has never been challenged or enforced.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. Members of security forces are prohibited from joining political assemblies or groups within the security services, but they are allowed to participate outside police or military compounds.

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

Religious institutions that wanted formal recognition were required to register with the Registrar General's Department; however, there were no reports that the government denied registration to any group. Most traditional religions, with the exception of the Afrikania Mission, did not register.

Because Christianity over the years has come to pervade many aspects of society, some Muslims feel a sense of political and social exclusion, due to factors such as the token representation of Muslims in national leadership positions, public prayers that often are Christian only, and the ubiquity of Christian slogans.

Trokosi, a religious practice indigenous to the southern Volta region, involves pledging family members, most commonly teenagers but sometimes children under the age of 10, to extended service at a shrine to atone for another family member's sins. Trokosis help with the upkeep of these shrines and pour libations during prayers. Trokosis sometimes live near shrines, often with extended family members, during their period of service, which lasts from a few months to three years. Government agencies, such as CHRAJ, have at times actively campaigned against Trokosi, although local officials portray it as a traditional practice that is not abusive. Some NGOs maintain that Trokosis are subject to sexual exploitation and forced labor, while supporters of traditional African religions, such as the Afrikania Renaissance Mission, have said these NGOs misrepresent their beliefs and regard their campaigns against Trokosi as religious persecution.

Societal Abuses and Discrimination.—There were occasional reports of interreligious and intrareligious friction, but no violent incidents based on religious affiliation occurred during the year.

The Jewish community had a few hundred residents. There were no reports of anti-Semitic acts; however, two weekly newspapers that generally supported the opposition occasionally published anti-Semitic articles.

For a more detailed discussion, see the *2005 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.

Security officers manned checkpoints nationwide to prevent smuggling, seize illegal weapons, and catch criminals, although many were unmanned during daylight hours; however, the police acknowledged that some officers occasionally erected illegal barriers to solicit bribes from motorists. The police continued to erect security checkpoints and conduct highway patrols in response to an upsurge in highway robberies. Police roadblocks and car searches were a normal part of nighttime travel in larger cities. The regional police commanders monitored the activities of police personnel working at the checkpoints.

The law prohibits forced exile, and the government did not use it.

Traditional village authorities can punish rural women with banishment for being pregnant out of wedlock or for suspected witchcraft. Approximately 300 women accused of witchcraft were sent to penal villages known as witch camps in the Northern Region (see section 5).

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. The government has established a refugee board to adjudicate claims for refugee status and to ensure refugees receive all appropriate protections. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government also granted refugee status or asylum. The law also incorporates the broadened refugee definition under the African Union Convention Governing Specific Aspects of Refugee Problems in Africa. The country cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The country generally had a liberal policy of accepting refugees from other West African nations, although this did not generally extend to granting work permits or permanent residence.

On November 9, police fired tear gas and warning shots in at Krisan refugee camp in the Southwestern Region to control a riot that left buildings and a vehicle burned. Several hours after the riot police proceeded from house to house, beating refugees. Records at the camp clinic indicate that 100 refugees were treated for injuries sustained during the period November 8–11. The government promised to investigate the incident.

Since January 270 Sudanese refugees were held at a former prison in Accra, pending refugee status determination. On July 21, two refugees attempted to leave the prison to seek medical treatment but were mistakenly refused permission to exit. Violence ensued between refugees and community residents. Two refugees and two Ghanaians sustained minor injuries.

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 through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In December 2004 presidential and parliamentary elections were held nation-wide. John Agyekum Kufuor of the NPP was reelected with 52.45 percent of the vote. Despite some irregularities, domestic and international observers characterized the elections as generally free and fair. There were reports of a shortage of ballot at some polls and minor problems with the voter register, such as misspelled names or photos not matching names. In the parliamentary elections the NPP won 128 seats; the National Democratic Congress 94; the Convention People's Party 3; the Peoples' National Convention (PNC), 4; and 1 independent candidate won a seat.

The country continued its transition from a one-party state to a more established multiparty constitutional system. The political system includes recognized opposition parties, which expressed their views freely within parliament and won a near majority of the parliamentary seats. Registered political parties operated freely within the country; however, opposition parties and some persons in private business continued to allege that some government contracts were awarded on the basis of ruling party membership.

Women held 25 of 230 parliamentary seats, and there were 4 female ministers, 14 deputy ministers, and 3 female council of state members out of 112 such positions.

Government Corruption and Transparency.—Corruption in the executive and legislative branches continued to be a problem. At year's end the CHRAJ continued to

investigate allegations that President Kufuor purchased a hotel with wrongfully obtained funds. Unlike in the previous year, the opposition NDC did not accuse the government of using anticorruption investigations to intimidate and harass its members; however, opposition parties charged that corruption continued unabated and that the government failed to use the institutions and mechanisms at its disposal to address the problem. There were reports that government officials pressured businesses to steer contracts toward favored companies and individuals.

In a report on political party financing released in September 2004, the CDD found that 42 percent of those surveyed cited kickbacks as the strongest manifestation of political corruption, followed by political appointment and extortion.

On November 21, *The Enquirer* newspaper publicly released secretly recorded tapes in which the then ruling party chairman alleged that government contractors regularly paid money to the president and his staff, either directly or through ministers, some of which went to fund the ruling party. The presidency denies these charges, although there was no official investigation.

The law does not provide for public access to government information.

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

At least 20 domestic and international human rights NGOs generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were responsive to their views. Prominent NGOs that operated in the country included the International Committee of the Red Cross (ICRC), Abantu for Development, Amnesty International, the International Federation of Woman Lawyers (FIDA), as well as local NGOs such as the African Center for Human Development and Ghanalert. In addition to cooperating with these NGOs, the government cooperated with international humanitarian organizations, including the ICRC and the International Organization for Migration (IOM).

The CHRAJ was charged with investigating alleged violations of human rights, including corruption of public officials, and taking action to remedy proven violations. The CHRAJ continued to hold workshops to educate the public, traditional leaders, police, and the military on human rights issues. It mediated and settled cases brought to it by individuals with grievances against government agencies or private companies. CHRAJ received an average of 10 thousand complaints annually. The bulk of these were family-related issues, although the commission investigated some corruption cases, specifically those involving conflict of interest. Since its inception in 1993, CHRAJ has received over 78 thousand petitions and successfully resolved 64,024.

The CHRAJ operated with no overt interference from the government; however, some critics questioned its ability to independently investigate high-level corruption within the Kufuor administration. Its biggest obstacle was a lack of adequate funding, which resulted in low salaries, poor working conditions, and the loss of many of its staff to other government and nongovernmental agencies.

On April 22, the government issued a formal response to the October 2004 recommendations made by the National Reconciliation Commission (NRC), which was established to create a historical record of human rights abuses for the periods of unconstitutional government between 1957 and 1993 and to make recommendations for redress. The government agreed to sensitize security forces to the importance of human rights, fairness, and professionalism. The government also established a Reparation and Rehabilitation Fund for victims; however, the budget was reportedly limited.

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

The law prohibits discrimination on the basis of race, sex, disability, language, or social status; however, enforcement by authorities was generally inadequate, in part due to limited financial resources. The courts were empowered to specifically order enforcement of these prohibitions.

Women.—Violence against women, including rape and domestic violence, remained a significant problem. The law does not prohibit domestic violence, and the criminal code grants husbands spousal immunity from any charges of assault against their wives. According to FIDA, one in three women experienced domestic violence, and most abuses went unreported. The police service's Domestic Violence Victim Support Unit (DOVVISU), formerly the Women and Juvenile Unit, handled cases of domestic violence, child abuse, and juvenile offenses. During the year, DOVVISU received 13,224 cases, the majority of which involved non payment of child maintenance (4,266) or failure to provide necessities of life (3,171). There were also 206 rape cases. DOVVISU worked closely with the Department of Social Wel-

fare, FIDA, the Legal Aid Board, and several human rights NGOs to combat domestic violence.

Prosecution of domestic violence cases remained difficult. Of 11,335 cases reported to DOVVISU's Accra branch between 1998 and 2004, only 19 percent led to a court appearance and less than 3 percent resulted in convictions. Many victims did not have access to appropriate medical assistance to record abuses, which hampered prosecution efforts. However, during the year the court sentenced a man who shot his wife to 10 years' imprisonment, and police arrested another man who allegedly killed his wife.

Unless specifically called upon by DOVVISU, police seldom intervened in cases of domestic violence, in part due to a lack of counseling skills, shelter, and other resources to assist victims. An NGO operated a single shelter for victims in the Eastern Region, and two provided free legal clinics for victims.

The criminal code outlaws rape, and in practice the country arrest and prosecutes perpetrators for this crime. However, husbands have immunity from such charges.

A strong belief in witchcraft continued in many parts of the country. Most accused witches were older women, often widows, who were identified by fellow villagers as the cause of difficulties, such as illness, crop failure, or financial misfortune. Many of these women were banished by traditional village authorities or their families and went to live in witch camps, villages in the north populated by suspected witches. The women did not face formal legal sanction if they returned home; however, most feared that they could be beaten or lynched. During the year a few women successfully reintegrated into their communities. The law provides protection to alleged witches, and DOVVISU continued to prosecute violence and societal abuses related to allegations of witchcraft.

There were several cases of lynching and assault of accused witches. In September Yendi police arrested a Tamabo farmer for allegedly cudgeling to death a woman suspected of being a witch. In August 2004 the court sentenced a man to death for killing his wife, who he believed was a witch.

Various organizations, including Catholic Relief Services, provided food, medical care, and other support to residents of the witch camps. The CHRAJ and human rights NGOs had little success in their efforts to end this traditional practice but held a series of workshops to sensitize communities in the area on proper treatment of alleged witches.

The law prohibits FGM, but it remained a serious problem. The typical age for circumcision was 15, although it was often performed on girls under 15. According to a recent study conducted by the Ministry of Health, approximately 15 percent of women between 12 and 19 in the three northern regions had undergone FGM, although some observers believed that education on the illegality of FGM had driven the practice underground and the real rate was as high as 30 percent. Intervention programs have been somewhat successful in reducing the prevalence. Officials at all levels, including traditional chiefs, have spoken against the practice, and local NGOs continued their educational campaigns to encourage abandonment of FGM and to retrain practitioners. In some cases FGM victims actively sought out practitioners, sometimes without their parents' knowledge, to prepare for marriage. One NGO in the Northern Region reported that mothers frequently failed to return to the hospitals where they delivered their babies for immunizations and to attend postnatal clinics, allegedly because they did not want the hospitals to discover that they were engaging in FGM.

In January 2004 a 70-year-old woman was imprisoned for 5 years for circumcising 7 girls who subsequently required medical attention.

The law imposes punishments for prostitution involving children; however, it occurred (see section 5, Children).

Trafficking of women and children for prostitution occurred (see section 5, Trafficking).

There were no laws to specifically protect women from sexual harassment; however, some sexual harassment cases were prosecuted under the existing criminal code. Women's advocacy groups reported that sexual harassment was a problem. A survey by the African Women Lawyers Association found that 63 percent of 789 female respondents had experienced some form of sexual harassment in the workplace and at educational institutions.

Women continued to experience discrimination. Women in urban centers and those with skills and training encountered little overt bias, but resistance to women entering nontraditional fields persisted. Women, especially in rural areas, remained subject to burdensome labor conditions and traditional male dominance. Traditional practices and social norms often denied women their statutory entitlements to inheritances and property, a legally registered marriage (and with it, certain legal rights), and the maintenance and custody of children. There were a number of fe-

male entrepreneurs, but access to banking resources remained a serious barrier for women who wanted to start or expand a business.

Women's rights groups were active in educational campaigns and in programs to provide vocational training, legal aid, and other support to women. In March the Ministry of Women and Children's Affairs (MOWAC) began developing plans to include women's concerns in government policies and to increase the hiring of women in civil service positions. The government was active in educational programs, and many officials were active, outspoken advocates of women's rights.

Children.—Within the limits of its resources, the government was committed to protecting the rights and welfare of children. The government continued to implement the Education Sector Plan (ESP) 2003–2015, which provides for free universal primary school education by 2015.

Education is compulsory through primary and junior secondary school (the equivalent of grades 1 through 9); however, education is generally not free. Parents are required to purchase uniforms and books. In the past some schools also imposed levies of up to \$50 (455,000 cedis) per term, and teachers often imposed extra classes for an additional fee to supplement their incomes. As part of its overall goal of making education accessible to all children, the government during the year abolished the payment of school charges and levies nationwide and introduced a capitation grant scheme, under which these charges were paid by the government.

The gross enrollment rate was 87.5 percent at the primary level with 90.5 percent of boys enrolled compared with 84.4 percent of girls. At the junior secondary school (JSS) level, 72.8 percent of eligible children were enrolled, with 77.3 percent of eligible boys and 68.1 percent of eligible girls enrolled. Some children were unable to attend school because they worked to supplement their family's income (see section 6.d.), they had to travel long distances to reach the school, or their school had insufficient teachers, especially in rural areas. In addition, authorities did not enforce children's attendance at school regularly, and parents rarely, if ever, were sanctioned for keeping their children out of school.

The government strongly supported the UN's Education for All goals. During the year, the Ghana Education Service (GES) actively campaigned to expand education for girls by providing scholarships at the JSS and senior secondary school levels and by offering incentives for female teachers to work in rural areas. The GES placed girls education officers at regional and district levels, and there were community participation coordinators in every district office to mobilize communities to increase school enrollments for girls. The government established science and math clinics at the JSS level to encourage more girls to pursue careers in science and technology.

These efforts have been accompanied by increased government support of informal schools, which target children that must work to help support their families. The government also increased educational opportunities for students with disabilities by increasing grants to primary schools serving these students during the year.

Children under five years of age, regardless of gender, had access to free health care at public hospitals.

The law prohibits defilement, incest, and sexual abuse against minors, but such abuse remained a serious problem. There were frequent reports that male teachers sexually assaulted and harassed female students. The girls often were reluctant to report these incidents to their parents, and social pressure often prevented parents from going to authorities. A 2003 survey reported that 27 percent of school girls interviewed stated their teacher had pressured them for sex, 25 percent stated they knew at least 1 teacher having an affair with a school girl, and 79 percent stated they were sexually harassed by male classmates. Approximately 40 percent of female students reported being sexually harassed at school often or very often, according to a study conducted during the year in upper primary and junior secondary schools. During the year there were several press reports of teachers and headmasters/headmistresses either arrested for sexual harassment of female students or dismissed for ignoring reported problems.

DOVVISU announced in June that between January 1999 and May 2004, there were 1,756 cases reported in which men victimized children between the ages of 2 and 15, 397 cases in which girls over the age of 16 had been raped, and 44 cases of reported incest. DOVVISU further advised that during the year 237 cases of defilement, 15 cases of causing harm to a child, and 2,341 cases of child neglect were reported.

Law enforcement officials have pursued such cases aggressively.

The Tarkwa Circuit Court recorded 44 defilement cases between May and July 2004. During the year police arrested a man for allegedly defiling a two-year-old girl. On March 30, 3 teenage boys were remanded for defiling a 15-year-old girl, and on October 7, a man was sentenced to 25 years' imprisonment with hard labor for defiling a 5-year-old girl. On October 11, a man was sentenced to 10 years' imprison-

ment with hard labor for molesting an 8-year-old boy. On October 20, the Akyem Swedru Circuit Court sentenced a man to 14 years' imprisonment for defiling an 11-year-old girl.

There were no developments in the following 2004 cases: the June remand of a man for sexually abusing a 13-year-old girl with disabilities, the remand of a man for sexually abusing a 7-year-old girl in the Central Region, and the September arrest and remand of a chief in the Ashanti Region for allegedly defiling a 14-year-old girl.

Reports have been received regarding corporal punishment, including caning of students.

Trokosi, which occurs in the Southern Volta Region among the ethnic Ewe group, is a practice in which a family member, most commonly a teen but sometimes a child under the age of 10, serves and is trained in traditional religion at a fetish shrine. A Trokosi, may live near the shrine for a period lasting between several weeks and 3 years to atone for an allegedly heinous crime committed by a family member. Local authorities estimated there were fewer than 50 Trokosis, some of whom were male or adult. While instances of sexual abuse may occur, there was no evidence that sexual or physical abuse was an ingrained or systematic part of the practice. The practice explicitly forbids a Trokosi to engage in sexual activity or contact during the atonement period. After a ritual, the Trokosi returns to his or her family. In the vast majority of cases, there is no particular stigma attached to one's status as a former Trokosi shrine participant. Multiple investigations by foreign embassy representatives have turned up no credible evidence of systematic or widespread abuses.

FGM was performed primarily on girls (see section 5, Women).

Forced child marriage, which is illegal, remained a problem. In August 2004 the Acting Commissioner for CHRAJ declared forced marriage the major human rights abuse issue in the Northern Region. In June 2004 a 16-year-old girl committed suicide to protest an abusive marriage into which she had been forced. Schoolteachers reported two other cases of forced marriages in 2004.

There were no further developments in the attempt by the Children's Department of the MOWAC and the CHRAJ to effect the prosecution of a chief who married a 14-year-old and impregnated her.

There were reports that trafficking in children occurred, for forced labor or sexual exploitation, including children being sold into various forms of involuntary servitude (see section 5, Trafficking).

Child labor was a serious problem (see section 6.d.).

The migration of children from rural to urban areas increased, due to economic hardship. Children were driven to the streets to fend for themselves, increasing both the occurrence of child labor and the school dropout rate (see section 6.d.). During the year MOWAC officials estimated that as many as 40 thousand porters, most of whom were girls under 18, lived on the streets in major cities, including Accra, Kumasi and Takoradi. These girls were among the most vulnerable child laborers, as many also engaged in prostitution or were sexually exploited in exchange for protection while living on the streets. In 2003 the Ghana Statistical Service and the ILO International Program to Eliminate Child Labor (ILO/IPEC) surveyed 2,314 street children throughout the country, most of whom lived in the urban areas of the Greater Accra and Ashanti Regions and had migrated from northern rural areas. Of those surveyed, 45.7 percent had never attended school, 98.1 percent were engaged in economic activity within the last 12 months, and 80 percent stated the work was demanding. Over three-quarters of street children surveyed reported that both parents were alive, indicating poverty was the main cause of the problem.

Local and international NGOs worked with the government to promote children's rights and were somewhat successful in sensitizing communities to protecting the welfare of children.

Trafficking in Persons.—On July 28, parliament passed an antitrafficking law that provides for a minimum prison sentence of five years for convicted traffickers. President Kufuor signed the new antitrafficking law on December 5. There were no prosecutions under the new law by year's end; however, on October 27, the Obuasi High Court sentenced a farmer under the criminal code to 10 years' imprisonment with hard labor for attempting to sell his son for \$8,869 (80 million cedis). The country was a source, transit, and destination country for women and children trafficked for the purpose of forced domestic and commercial labor and sexual exploitation.

The government, the ILO, and NGOs trained security forces, immigration authorities, customs officials, and police on the problems of trafficking.

Child prostitution was a problem. The ILO/IPEC organized workshops throughout the year on the problem of increased child prostitution in the tourism industry and

to combat the problem. During the year a government minister told hotel administrators to prevent adults from bringing children to hotels for sexual exploitation.

From January to May there were 105 cases of child abduction and 131 cases of child stealing, according to the DOVVISU.

On July 12, a 25-year-old Ivorian man was remanded in custody in Sekondi for attempting to sell his 21-year-old male friend for \$42,771 (25 million cedis).

On September 4, the Immigration Service reported its largest interception of traffickers to date when Kulungugu border officials arrested a woman for attempting to traffic 17 children, ages 5 to 17, to Burkina Faso.

The government generally assisted with international investigations of trafficking; however, during the year the government refused to extradite a member of parliament to face an indictment for trafficking charges.

Under the new antitrafficking law, the DOVVISU has responsibility for enforcement, and the Ministry of Manpower's Department of Social Welfare has responsibility for victim assistance, including temporary shelter, counseling, family tracing, and skills training. The law also establishes a 17-member Human Trafficking Board composed of all relevant ministries, the security services, the private sector, and other stakeholders.

There was no reliable estimate of the number of internally or externally trafficked victims, although the figure was thought to be in the thousands.

Trafficking was both internal and international, with the majority of trafficking in the country involving children from impoverished rural backgrounds. The most common forms of internal trafficking involved boys from the Northern Region going to work in the fishing communities along the Volta Lake or in small mines in the west, and girls from the north and east going to Accra and Kumasi to work as domestic helpers, porters, and assistants to local traders (see section 6.d.). Local NGOs reported these children were subjected to dangerous working conditions and sometimes were injured or killed as a result of the labor they performed.

Children between the ages of 7 and 17 also were trafficked to and from the neighboring countries of Cote d'Ivoire, Togo, the Gambia, Nigeria, and Equatorial Guinea to work as farm workers, laborers, divers, street hawkers, or domestics.

Much of the recruitment of children was done with the consent of the parents, who sometimes were given an advance payment or promised regular stipends from the recruiter and were told the children would receive food, shelter, and often some sort of training or education. Some parents sent their children to work for extended family members in urban areas. Treatment of children sent to work in relatives' homes varied. Many children were given to professional recruiters, usually women, who placed the children with employers in cities. A child in these circumstances usually was paid between \$2.20 and \$3.30 (20 thousand to 30 thousand cedis) per month. In many cases, the children never received the education or vocational training the recruiters promised. Girls could be forced into prostitution and were sometimes sexually abused by their employers.

Women also were trafficked to Western Europe, mostly to Italy, Germany, and the Netherlands. International traffickers promised the women jobs; however, the women often were forced into prostitution once they reached their destination. The women were sometimes sent directly to Europe while others were trafficked through other countries. Some young women were trafficked to the Middle East, particularly Lebanon, where they worked in menial jobs or as domestic help. There also was a trade in Nigerian women transiting through the country on their way to Western Europe or the Middle East to work in the commercial sex industry. Traffickers from other countries reportedly used Accra as a transit point to Europe and the Middle East. Reportedly, there was some trafficking in persons from Burkina Faso, mostly transiting through the country on the way to Cote d'Ivoire.

Authorities were unaware of any organized crime syndicates involved in human trafficking in the country.

Various ministries worked with ILO/IPEC, the IOM, and NGOs to address trafficking. The Ministry of Manpower Development and Employment, in conjunction with ILO/IPEC, continued to implement a National Plan of Action for the Elimination of Child Labor (see section 6.d.). The IOM, the African Center for Human Development, and MOWAC worked to identify and return children trafficked to fishing villages. The government led a nine-nation multilateral protocol for international cooperation on child trafficking that was signed in July.

Authorities made efforts to shelter and reintegrate trafficking victims from the country and other West African countries. In June the Department of Social Welfare opened its second shelter in Medina near Accra.

Several NGOs, both local and international, worked with trafficking victims. These organizations, as well as the University of Ghana's Center for Social Policy Studies, conducted studies into trafficking as part of their broader agenda, per-

formed some rescue operations for street children, provided training and education for victims of trafficking and abuse, and in some cases, assisted with family reunification.

Persons with Disabilities.—The law specifically provides for the rights of persons with disabilities, including protection against exploitation and discrimination. While the government did not systematically or overtly discriminate against persons with disabilities, in practice, such persons often experienced societal discrimination. The law provides persons with disabilities access to public buildings as far as practicable; however, in practice this provision was not implemented. In 2003 department of social welfare officials estimated that 10 percent of the population had some form of physical disability.

In 1999 the government established a policy whereby blind and wheelchair-bound persons would receive a disability allowance. In June 2004 the interim chairman of the Ghana Union of Physically Disabled Workers accused the GES of not paying workers with disabilities the disability allowance to which they are entitled. According to the Ghana Union of Physically Disabled Workers, approximately 60 persons with disabilities were denied this allowance, with GES the main offender.

Persons with disabilities were frequently subjected to abuse and intolerance. Some religious sects believed that persons with disabilities were afflicted by demons and should be exorcised. The abuse of children with disabilities was common. There were reports that children with disabilities were tied to trees or under market stalls and caned regularly. There also were reports of family members killing children with disabilities.

There were multiple government agencies involved in addressing discrimination against persons with disabilities, including the Ministry of Health, the Department of Social Welfare, and the Ministry of Education.

National/Racial/Ethnic Minorities.—Although the government deemphasized the importance of ethnic differences, its opponents complained that the government was dominated by Ashantis and other Akans at the expense of Ewes and northerners. The president and some of his ministers and close advisors were Ashanti, but the vice president and many ministers were of other ethnic origins.

Efforts by NGOs to encourage reconciliation continued during the year; however, there were several violent confrontations within ethnic groups related to chieftaincy issues, particularly those involving succession and land. For example, on April 1, a chieftaincy conflict between 2 factions at Tetegu, a suburb of Accra left a number of persons with gunshot wounds, more than 2 thousand persons displaced, and approximately 120 houses belonging to members of the feuding factions destroyed. At Bortianor, near Krokobite in Accra, two persons belonging to different chieftaincy factions were shot and killed while eight others were brutally injured. In December gun battles returned to Bimbila, the site of a long-standing chieftaincy dispute. The clashes between rival factions vying for the chieftaincy resulted in gunshot wounds to one and machete wounds to four others as well as five arrests.

The trial of four persons charged with rioting, conspiracy, attempted murder, and murder from a 2003 clash in Brekusu, Eastern Region, was ongoing at year's end.

Other Societal Abuses and Discrimination.—The law is discriminatory toward homosexuals, and homosexuality is criminalized in the country. There is a minimum misdemeanor charge for homosexual activity, and homosexual men often are subjected to abuse in prison. In May 2004 the acting commissioner for CHRAJ publicly suggested that the government consider decriminalizing homosexuality to conform to international standards of human rights.

In April four male students were dismissed from a boy's school in Akosombo for allegedly engaging in homosexual acts. Additionally, gay and lesbian activists reported that gay men were particularly vulnerable to extortion by police.

Discrimination against persons with HIV/AIDS was a problem, and the fear of being stigmatized continued to discourage persons from being tested. In April 2004 the inspector general of police publicly urged all police officers to be tested voluntarily through a free service available to the police. During the year several key government representatives publicly denounced discrimination against persons with HIV/AIDS. In 2004 the cabinet approved a policy to protect the rights of persons living with HIV/AIDS.

Section 6. Worker Rights

a. The Right of Association.—The law provides for freedom of association, and workers exercised this right in practice. Workers form unions without excessive requirements, and workers exercised this right in practice. The percentage of workers belonging to unions appeared to be decreasing as more of the workforce entered the informal sector, where there was no union activity. The Ministry of Employment

and Manpower Development estimated that 80 percent of the work force was employed in the informal sector.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law also provides a framework for collective bargaining, and trade unions engaged in collective bargaining for wages and benefits with both private and state-owned enterprises without government interference. However, only unions that represented the majority of workers in a given company can obtain a Collective Bargaining Certificate, which is required to engage in collective bargaining.

The law recognizes the right to strike; however, the law restricts that right for workers who provide essential services. The Minister of Manpower, Youth, and Employment had not formally designated the list of essential services by year's end. The right to strike can also be restricted for workers in private enterprise whose services were deemed essential to the survival of the enterprise by a union and an employer. A union may call a legal strike if the parties fail to agree to refer the dispute to voluntary arbitration or if the dispute remains unresolved at the end of arbitration proceedings. No union has ever gone through the complete dispute resolution process, and there were numerous unsanctioned strike actions during the year. There have been no legal strikes since independence.

Existing labor law applies in export processing zones (EPZs), including the right to organize.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.).

The law provides for fines to employers found guilty of using forced labor; however, by year's end the law had not been used. During the year the ILO continued to urge the government to revise various legal provisions that permit imprisonment with an obligation to perform labor.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law sets a minimum employment age of 15 years and prohibits night work and certain types of hazardous labor for those under 18 and provides for fines and imprisonment for violators; however, child labor remained a serious problem in the informal sector. The law allows for children age 15 and above to have an apprenticeship under which craftsmen and employers have the obligation to provide a safe and healthy work environment along with training and tools. However, child labor laws were not enforced effectively or consistently, and law enforcement officials, including judges, police, and labor officials, often were unfamiliar with the provisions of the law that protected children. Observance of minimum age laws was eroded by local custom and economic circumstances that encouraged children to work to help support their families.

An ILO/IPEC-Ghana Statistical Service survey of child labor released in 2003 found that 2.47 million children were engaged in some economic activity and 64.3 percent of those children attended school. Of those children engaged in economic activity, 1.27 million children were found to be engaged in child labor as defined by age and hazardous working conditions. Children as young as seven worked as domestic laborers, porters, hawkers, miners, quarry workers, fare collectors, and in agriculture. The fishing industry on Lake Volta had a particularly high number of child laborers engaged in potentially hazardous work, such as deep diving. According to an ILO representative, child labor in the tourism industry also increased. Child laborers were poorly paid and subjected to physical abuse; they received little or no health care and generally did not attend school. According to government labor officials and the Ghana Employers Association, child labor problems did not exist in the formal labor sector because the formal sector was better regulated.

The law prohibits forced and compulsory labor by children; however, during the year children were reportedly sold, leased, or given away by parents to work in agriculture, fishing villages, quarry mines, shops, or homes. It was difficult to determine the extent to which forced and bonded labor by children was practiced (see section 5).

There were newspaper reports of children being sold into various forms of involuntary servitude for either sexual exploitation or labor, such as 10- to 12-year-old boys working for fisherman in exchange for a yearly remittance to their families. The practice often involved the consent of their generally impoverished parents. Reliable data was not available on the number of children who were working in fishing villages along Lake Volta; nevertheless, NGOs who worked on this issue estimated the number to be well into the thousands (see section 5).

Inspectors from the Ministry of Labor and Social Welfare are responsible for enforcement of child labor regulations, and district labor officers and the social serv-

ices sub-committees of district assemblies are charged with seeing that the relevant provisions of the law are observed. They visited each workplace annually and made spot checks whenever they received allegations of violations. However, all law enforcement and judicial authorities in the country were hampered by severe resource constraints and a lack of public awareness about the problem.

When Ministry of Manpower Development and Employment inspectors found infractions of child labor laws during their routine monitoring of companies' labor practices, they generally informed the employers about the provisions of the law and asked them to make changes. There were no prosecutions for child labor resulting from these inspections. Officials only occasionally punished violators of regulations that prohibit heavy labor and night work for children. In addition, the inspectors' efforts were concentrated only in the formal sector, which was not where most child labor was performed.

ILO/IPEC, government representatives, the TUC, the media, international organizations, and NGOs continued to build upon the 2001–02 National Plan of Action for the Elimination of Child Labor in Ghana by increasing institutional capacity to combat child labor. Education and sensitization workshops were conducted with police, labor inspectors, local governments, and communities. Forums were held throughout the country to develop and implement an ILO/IPEC Time-Bound Program, which aimed to eliminate all forms of child labor under specified time periods and benchmarks.

e. Acceptable Conditions of Work.—A National Tripartite Committee composed of representatives of the government, labor, and employers set daily minimum wages. In February, after lobbying by trade unions, the Tripartite Committee raised the daily minimum wage to \$1.45 (13,520 cedis), which did not provide a decent standard of living for a worker and family. Furthermore, there was widespread violation of the minimum wage law. In most cases, households had multiple wage earners, and family members engaged in some family farming or other family-based commercial activities. The Ministry of Manpower, Youth, and Employment was unable to credibly enforce this law.

The law sets the maximum workweek at 40 hours, with a break of at least 48 consecutive hours every 7 days. The government compensated extra duty hours only for overtime actually worked, in accordance with labor equity, rather than as an automatic salary supplement.

Occupational safety and health regulations exist, and the Labor Department of the Ministry of Health and Social Welfare occasionally imposed sanctions on violators. However, safety inspectors were few and poorly trained. They took action if matters were called to their attention but lacked the resources to seek out violations. Workers have the right to withdraw themselves from dangerous work situations without jeopardy to continued employment, although they rarely exercised this right.

GUINEA

Guinea is a constitutional republic in which effective power is concentrated in a strong presidency. President Lansana Conte has ruled this country of approximately 9.2 million persons since 1984, first as head of a military junta and, since 1994, as a civilian president. Despite openly acknowledged health problems, the president ran for re-election in December 2003, winning against a candidate who was virtually unknown. All major opposition parties boycotted the election, criticized by international observers as neither free nor fair. The civilian authorities generally did not maintain effective control of the security forces.

The government's human rights record improved as it implemented political and macroeconomic reforms begun in 2004 with the appointment of Prime Minister Cellou Dalein Diallo although serious problems remained. Some international donors withheld foreign aid pending progress on reforms, including with regard to human rights. High inflation, severe power blackouts, and water shortages led to increased hardship for most citizens. Lack of health care services and basic infrastructure combined with endemic poverty caused systemic pressures on daily life. The following human rights problems were reported:

- restrictions on the right of citizens to change their government
- unlawful killings by security forces
- beatings and abuse of civilians, particularly detainees, by security forces
- inhumane and life-threatening prison conditions

- impunity
- arbitrary arrest and prolonged pretrial detention
- executive influence in the judiciary
- infringements on citizens' privacy rights
- infringements on freedom of speech, the press, assembly, association, and movement government corruption
- violence and societal discrimination against women, prostitution of young girls, and female genital mutilation (FGM)
- trafficking of persons
- ethnic discrimination
- antiunion discrimination
- child labor

The government took significant steps to improve freedom of the press through a media liberalization decree clearing the way for private radio and television broadcasting in the country. The government agreed to some electoral reforms proposed by political parties as part of an open dialogue, including an autonomous electoral commission, a single ballot listing all political parties, free and equitable access to radio and television during the campaign period, transparent ballot boxes, and the liberty to travel and campaign without government intervention. Freedom of movement and assembly increased, although to a lesser extent than in the previous year, including peaceful rallies and campaign trips across the country by political opposition leaders.

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 that the government or its agents committed political killings; however, security forces killed five persons during the year, and there were reports of deaths in custody due to torture, abuse, and neglect.

On November 24, 2 students and a 65-year old woman were killed by police during a student demonstration in Telimele. The officer was not punished.

On July 10, a gendarme officer killed a 19-year-old student in Conakry during a student strike at Ratoma Junior High School. The officer was not punished, and no investigation occurred by year's end.

In December 2004 a member of the military killed a school boy in Fria following a strike by employees of an aluminum company. No charges were filed. The government often considered killings by security forces to be "professional accidents" and instead, of prosecution or sanction, transferred the perpetrator to another district.

There were no developments in the following 2004 reported killings by security forces: the February beating to death of a man detained for burglary, the May police shooting and killing of two taxi drivers, or the October killing of a man by the Anti-Gang Brigade.

There were no developments in the reported 2003 killings by police.

Government authorities continued to block efforts by human rights groups and nongovernmental organizations (NGOs) to investigate political killings that took place in the 1970s under then President Sekou Toure.

Many victims of crime feared that they might never receive justice because of judicial corruption and at times resorted to vigilante violence. In September a Conakry homeowner and his neighbors caught and beat to death a suspected burglar.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, both civilian and military security forces beat and otherwise abused civilians. There also were reports that security forces used torture and beatings to extract confessions and employed other forms of brutality, including holding prisoners incommunicado without charges under inhumane conditions.

Students who were arrested in 2004 during a strike at the University of Conakry claimed to have been tortured in prison.

Police and members of the antigang brigade beat a journalist attempting to report on social and labor issues (see sections 2.a. and 6.b.).

Police injured several persons while using force to disperse demonstrations during the year (see section 2.b.).

No action was taken against security forces responsible for reported abuses in 2003.

Prison and Detention Center Conditions.—Prison conditions remained inhumane and life threatening. Neglect, mismanagement, and lack of resources were prevalent. The basic diet for prisoners was inadequate, and most inmates relied on supplemental assistance from families or friends to maintain their health. Guards often demanded bribes in exchange for allowing delivery of food to those incarcerated. Approximately 100 children, who were either born in prison or had no alternative means of care, lived permanently in the Conakry jail with their mothers. No provisions were made for the children's food, clothing, education, or medical care. The government did little to address prison conditions. National and international NGOs continued programs to improve the health of critically malnourished inmates.

Standards of sanitation remained poor, which resulted in several dozen deaths due to malnutrition and disease. Toilets did not function, and prisoners slept and ate in the same space where they relieved themselves. During the year there were reports that persons died due to lack of medical attention and poor conditions. On January 23, an imam arrested after the January assassination attempt on President Conte died in prison as a result of poor medical treatment and dangerous and unsanitary conditions.

Some prisoners reported sleeping on their knees because their cells were so small. Prisoners reported that guards threatened, beat, and harassed them, and some reported being denied food and a place to lie down. For example, one prisoner lost his sight due to beatings. A student imprisoned on assault and battery charges was paralyzed. Prison guards were suspected of torture in both incidents; however, no investigation took place by year's end. Some prisoners wielded more power than the guards, offering more sanitary cells and conditions to new prisoners who were able to pay.

Efforts by the International Committee of the Red Cross (ICRC) helped improve conditions with several prison rehabilitation projects in the country. In the overcrowded N'Zerekore prison, ICRC established access to clean water and constructed a secured area to allow prisoners to go outside.

On May 15, 63 prisoners escaped from the main prison in downtown Conakry; of these, 6 were military detainees. The facility was built in 1950 to hold 200 prisoners but at the time of the escape, 836 inmates were listed. An official in the Ministry of Justice reported that the prison may have held two thousand prisoners. At year's end one of the military prisoners remained at large.

On December 25, four prisoners escaped from prison in Kankan. The following day three of the prisoners were rearrested and the fourth was still at large at year's end.

In most prisons, men and women were held separately, but juveniles generally were held with adults, and first-time offenders were not separated from common criminals. There were credible reports from prisoners that guards harassed and sexually assaulted female inmates. An unknown number of boys below the age of 14 were also held in the Conakry prison with no legal representation. One boy had been detained for eight years on a petty shoplifting charge. An international NGO reported the prevalence rate of HIV/AIDS among incarcerated minor boys to be as high as 50 percent, suggesting sexual abuse. Local and international NGOs were providing some food and legal representation to these boys.

Pretrial detainees were not separated from convicted prisoners, and the prison system often was unable to track pretrial detainees after arrest. Prisoners of political importance usually were held in the main prison in Conakry with the general prison population but were held in separate cells.

The government permitted prison visits by the ICRC and other local humanitarian and religious organizations, which offered medical care and food for those in severe need. The ICRC reported that it was allowed regular access to all 33 official detention facilities and 2,500 prisoners during the year. The ICRC continued to initiate partnership programs with prison and security authorities to improve prison conditions. A former prisoner reported that without this assistance, those who did not have families or friends would have starved to death.

On February 5, UN Development Program (UNDP) and local NGOs organized a day of charity for prisoners. The government did not interfere as volunteers went into Conakry's main prison to clean the facilities and provide food, medicines, and clothing to prisoners.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, security forces regularly used arbitrary arrest and detention.

Role of the Police and Security Apparatus.—The gendarmerie, a part of the Ministry of Defense, and the national police, under the Ministry of Security, share re-

sponsibility for internal security and sometimes played an oppressive role in the daily lives of citizens. The Code of Penal Procedure permits only the gendarmerie to make arrests, but the army, the Presidential Guard (Red Berets), and the state police often detained persons as well. A quasi-police unit called the Anti-Crime Brigade (BAC), created to fight criminal gangs and bandits, operated in Conakry and in most major regions and prefectures. In practice administrative controls over the police were ineffective, and security forces rarely followed the penal code. Many citizens viewed the security forces as corrupt, ineffective, and even dangerous. Police ignored legal procedures and extorted money from citizens at roadblocks (see section 2.d.). There were no reported judicial proceedings against officers suspected of committing abuses. National and international NGOs conducted seminars to train security forces on human rights issues and conflict resolution techniques.

The penal code stipulates that the arrest of persons in their home is illegal between 4:30 p.m. and 6 a.m.; nevertheless, midnight arrests took place. The penal code also requires that the government issue a warrant before an arrest can be made and that detainees be charged before a magistrate within 72 hours. In practice many detainees were incarcerated for longer periods before being charged. After being charged, the accused may be held until the conclusion of the case, including a period of appeal. Authorities frequently did not respect the provision of the law that provides for access by attorneys to their clients. Although the law proscribes incommunicado detention, at times it occurred in practice. Release on bail was at the discretion of the magistrate who had jurisdiction.

Arrest and Detention.—The government detained approximately 60 civilians and military officers for suspected involvement in the January 19 assassination attempt on President Conte. Antoine G'Bokolon Soromou, former mayor of Lola, was suspected to have organized the attack. Soromou left the country, and his whereabouts were unknown. Mohamed Lamine Diallo (also known as Benn Pepito, a journalist for the private weekly newspaper *La Lance* was released on February 19 after three days in custody. At year's end both Soromou and Diallo were in self-imposed exile. Police arrested Mohamed Diane and Paul Yomba Kourouma, both affiliated with the political opposition party Rally of the People of Guinea (RPG). Diane was released the same day and Kourouma released two days later.

On February 25, the military police placed Colonel Mamadou "Toto" Camara under house arrest and accused him of being involved in the January assassination attempt of the president. Police released him on July 20. Camara was detained in March 2004 along with former mayor and prominent member of the UFR opposition party Rougui Barry and another UFR member for being involved in efforts to subvert the government. Charges against the two party officials were later dismissed.

Gendarmes detained an unknown number of active and ex-military personnel for unspecified reasons. Credible human rights sources reported that these detainees were not allowed to receive visits by family members, and their treatment was not monitored by independent agents. In violation of the law, an unknown number of prisoners were held on army bases where virtually all contact was forbidden.

Police detained members of political opposition parties during the year. The government acknowledged the existence of several temporary political detainees. Opposition parties estimated that there were approximately 200 political detainees, and the majority of their arrests occurred during the campaign period and on election day. At years end no charges had been filed against these persons. In practice political detentions rarely exceeded a few days, and these persons were generally extended more protections than other detainees because of the attention to their cases by NGOs and the media. In high profile detentions, the persons were often held separately from other detainees and prisoners, and access to them was unrestricted.

Prolonged pretrial detention was a problem. At times detainees remained in prison for more than two years without trial. For example, at years end seven military officers who were arrested in December 2003 for suspected coup plotting were still in prison awaiting trial. By one account, at Conakry central prison only 313 of the 627 persons in detention had been tried, while 314 were in investigative detention. Two prisoners, Abdoulaye Camara and Mohamed Diassy reportedly served nine years at the central prison without judgment or sentencing. The men were held in a cramped section of the prison where they were prevented from moving freely. At least one of them has suffered permanent paralysis as a result of prison conditions. Police arrested the men in March 1996 in connection with a burglary.

Unlike in previous years, there were no reports of a parallel and covert system of justice run by unidentified uniformed personnel who conducted midnight arrests, detained suspects, and used torture in secret prisons to obtain confessions before transferring detainees to prosecutors.

e. Denial of Fair Public Trial.—Although the law provides for the judiciary's independence, judicial authorities routinely deferred to executive authorities in politically sensitive cases. Magistrates were civil servants with no assurance of tenure. Because of corruption and nepotism in the judiciary, relatives of influential members of the government often were, in effect, above the law. Judges often did not act independently, and their verdicts were subject to outside interference. The judicial system was plagued by numerous problems, including a shortage of qualified lawyers and magistrates and an outdated and restrictive penal code.

On August 1, President Conte appointed Lamine Sidibe as chief justice of the Supreme Court. Sidibe also served in this position from 1992 to 1999, during which time he officially validated Conte's victory in the disputed 1993 and 1998 presidential elections.

The judiciary includes courts of first instance, two courts of appeal, and the Supreme Court, which is the court of final appeal. In practice the two courts of appeal for Kankan and Conakry that handle serious crimes barely functioned due to lack of resources and organizational problems, and many prisoners were detained for lengthy periods without trial (see section 1.d.).

Trial Procedures.—The penal code provides for the presumption of innocence of accused persons, the independence of judges, the equality of citizens before the law, the right of the accused to counsel, and the right to appeal a judicial decision; however, these rights were not consistently observed in practice. Although in principle the government is responsible for funding legal defense costs in serious criminal cases, in practice it rarely disbursed funds for this purpose. The attorney for the defense frequently received no payment.

Trials were public, and juries were used for criminal cases. Defendants had the right to be present and to consult with an attorney in a timely manner. Defendants were allowed to confront and question prosecution witnesses and present witnesses on their behalf. The prosecution prepared a case file, including testimonies and evidence, and provided a copy for the defense.

Many citizens wary of judicial corruption preferred to rely on traditional systems of justice at the village or urban neighborhood level. Litigants presented their civil cases before a village chief, a neighborhood leader, or a council of "wise men." The dividing line between the formal and informal justice systems was vague, and authorities may refer a case from the formal to the traditional system to ensure compliance by all parties. Similarly, if a case cannot be resolved to the satisfaction of all parties in the traditional system, it may be referred to the formal system for adjudication. The traditional system discriminated against women in that evidence given by women carried less weight (see section 5).

A military tribunal prepares and adjudicates charges against accused military personnel, to whom the penal code does not apply. Civilians were not subject to military tribunals.

The state security court is comprised of magistrates directly appointed by the president, and the verdict is open to appeal only on a point of law, not for the re-examination of evidence.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law provides for the inviolability of the home and requires judicial search warrants; however, police and paramilitary police often ignored legal procedures in the pursuit of criminals. For example, after the January presidential assassination attempt, police went door-to-door in the Enco 5 neighborhood, searching homes and private vehicles, and detaining private citizens on suspicion of involvement.

Although the belief that security forces monitor the mail no longer exists, many believed that they monitored electronic communications. Local businesses, including foreign companies, often complained that public officials and authorities intimidated and harassed them.

In some instances the government coerced membership in political organizations by conferring preferential treatment on those who were members of the majority Party of Unity and Progress (PUP). For example, the government demoted and reassigned a government employee, who was the local representative of the UPG opposition party, to another region because of his active political affiliation.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of expression, subject to certain limitations. Although the government made substantial progress in ensuring these freedoms, journalists still faced government harassment. On August 20, President Conte signed a media liberalization decree that cleared the way for private radio and television broadcasting. The decree limited ownership of media by

political parties and religious institutions but did not restrict programming on political and religious subjects.

The government prohibited talk or chants in public that it considered seditious; established defamation and slander as criminal offenses; and prohibited communications that insulted the president, incited violence, discrimination, or hatred; or disturbed the public peace or security. Sanctions include fines, revocation of press cards, imprisonment, and banishment.

On January 31, in Conakry, security forces destroyed the stalls belonging to market women who insulted the president as his motorcade passed.

In August, President Conte appointed Boubacar Yaccine Diallo, an independent journalist and newspaper editor, as chairman of the National Communications Council (CNC). The CNC was expected to play a pivotal oversight role in the new privately owned broadcast media. Diallo initiated programs to increase professionalism in journalistic practice and implemented a requirement that journalists must meet higher professional standards to obtain press credentials.

The government published an official newspaper, the daily *Horoya*, and continued to operate official television and radio stations. The state-owned media provided extensive and mostly favorable coverage of the government and ruling party; however, government media increased coverage of opposition activities and were more critical of the government officials on the local level.

Private newspapers openly criticized the president and the government. Ten private newspapers were published weekly in Conakry, and up to 10 other publications appeared sporadically, although technical difficulties and high operating costs impeded regular publication. One newspaper, *L'Espoir*, was affiliated with the governing political party, and several other newspapers openly supported opposition parties. Other newspapers offered news and criticism of both the government and the opposition. In September the government announced financial subsidies of approximately \$100 thousand (450 thousand francs) to private newspapers. The Guinean Association of Independent Editors received the funds and divided them among the various private press organizations.

Foreign publications, some of which criticized the government on a regular basis, were available both in print and electronic format. Despite the limited reach of the print media due to low literacy rates and high prices of newspapers, the government continued occasionally to criticize and harass print journalists.

In August the government authorized private radio and television broadcasting. However, at year's end the government continued to own and operate all domestic broadcast media including radio, which was the most important source of information for the public. During the year 2 additional rural and community radio stations were opened bringing the total number to 12. License applications for private radio and television stations were not filed by year's end. Many citizens listened regularly to foreign-origin short wave radio. The government did not restrict access to or distribution of foreign television programming via satellite or cable; however, relatively few citizens could afford these services.

On February 14, police beat Lansana Sarr, a journalist at *Horoya*, and Satigui Kaba, a journalist from *Le Lynx*, as they attempted to report on a labor dispute. Sarr was detained for five hours (see section 6.b.). The municipal police were suspended for one week for their actions.

In July the police briefly detained Youlaké and Youssouf Boundou from the online newspaper *Guinée News*, after they asked questions regarding a French national with close ties to President Conte.

On November 2, police arrested Louis Esperant Celestin, editor of *Guinea Actuelle*, because of an article he published about the prime minister. Police released Celestin the next day following intervention by President Conte.

Unlike in the previous year, there were no reports that the CNC suspended newspapers activities. In April the Ministry of Security refused to allow the magazine *Jeune Afrique L'intelligent* permission to distribute a weekly edition that featured a story reporting on President Conte's ill health. President Conte ordered the ban lifted 24 hours later, and the magazine became freely available to the public.

There were no government restrictions on the Internet.

The Ministry of National Education and Scientific Research exercised limited control over academic freedom through its influence on faculty hiring and control over the curriculum. In general, teachers were not subject to classroom censorship.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law restricts freedom of assembly; however, unlike in previous years, the government did not exercise its power to restrict unwanted political activity. For example, the government authorized opposition political rallies more liberally than in the previous year. The penal code bans any meeting that has

an ethnic or racial character or any gathering “whose nature threatens national unity.” The government requires a 72-working-hour advance notification of public gatherings; otherwise the events are considered illegal. The government no longer required political party leaders to provide advance notification of their attendance at funerals, weddings, or any other gathering with a large number of citizens.

In January the minister of territorial administration provided written instructions to governors and prefects to allow peaceful meetings and demonstrations organized by opposition political parties, and the government generally observed this in practice. However, during the December election period security forces arrested and injured opposition party supporters. Police arrested several opposition party supporters in several towns, and security forces injured several persons.

On December 15, police stopped a vehicle with supporters of Sidya Toure’s Union of Republican Forces (UFR) party. They were arrested, beaten, and released the same day.

On December 18, the day of the elections, supporters of the RPG party clashed with police and security personnel in several cities. In Kouroussa security forces fired on a crowd and wounded three persons. No arrests were made, and an investigation of the incident was ongoing at year’s end. In Kissidougou 24 persons were injured, including 11 women, when security forces clashed with party supporters. There was no investigation and no arrests. On election day, there were arrests during political demonstrations. In Siguiri 19 persons were arrested and detained for 10 days, in Mandiana 6 persons were arrested and detained for a week, in Kerouane 39 persons were arrested and held for 2 days, and in Beyla 1 person was arrested and released 2 days later. On December 18 in Conakry, a Union for Renewal and Progress (UPR) candidate was arrested and released three hours later.

The law permits local authorities to cancel a demonstration or meeting if they believe it poses a threat to public order. They may hold event organizers criminally liable if violence or destruction of property ensues. The new governor of Conakry does not require written permission from his office for public meetings of all associations, NGOs, groups, cooperatives, and political parties. The government generally respected rights of assembly by opposition parties. Police did not interfere with groups traveling to rallies or assembled to support opposition leaders. For example, on July 5, more than 20 thousand supporters assembled to greet Alpha Condé, leader of the opposition party RPG, who returned to the country after 2 years in France.

Unlike in the previous year, there were no reports of a street march ban by the government.

In October 12 school children were injured when students clashed with police in Dalaba.

During the year protests continued in the country, although fewer than in the previous year. Some demonstrations were broken up using force. On November 24, security forces fired on a crowd during a student demonstration in Telimele. Three persons were killed, including two students and a 65-year-old woman, and four persons were seriously injured. Many persons were arrested and later released.

The country experienced several demonstrations to protest rising food and fuel prices, some of which were broken up by force. For example, on June 29, law enforcement officials clashed with approximately 500 young persons protesting the lack of basic services such as electricity and water. Police fired shots in the air and used tear gas to disperse the crowd. No injuries were reported and no arrests were made.

On September 8, in the northern town of Kouroussa, military guards opened fire on demonstrators who demanded to know the whereabouts of approximately \$40 thousand (150 million francs) in development assistance given by a mining company operating in the area. Military guards seriously injured 2 persons and arrested 15, who were released the same day.

No action was taken against security forces that killed or injured persons while forcibly dispersing demonstrations in 2004.

Freedom of Association.—The law provides for freedom of association; however, the government infringed on this right in practice. The government imposed cumbersome requirements to obtain official recognition for public social, cultural, religious, or political associations. Most of the restrictions focused on political associations as opposed to nonpolitical associations. For example, political parties had to provide information on their founding members and produce internal statutes and political platforms consistent with the constitution before the government recognized them.

In July and August, Sidya Toure, president of the opposition party UFR visited 30 party federations throughout the country without hindrance by government officials. Simultaneously, RPG leader Alpha Condé made a similar trip to several regions of the country without government interference.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected these rights in practice.

The Ministry of the Islamic League represented the country's Sunni Muslim majority, which comprised 85 percent of the population. Government support of the powerful ministry led some non-Muslims to complain that the government used its influence to favor Muslims over non-Muslims, although non-Muslims were represented in the cabinet, administrative bureaucracy, and the armed forces. The ministry oversees the choice of imams and prevented certain individuals who they believed were extremists or who did not support the ministry's positions from becoming imams. The ministry also monitored the messages broadcast in Friday prayer services by drafting and distributing the weekly sermons. The government refrained from appointing non-Muslims to important administrative positions in certain parts of the country in deference to the particularly strong social dominance of Islam in these regions.

Societal Abuses and Discrimination.—Relations among the various religions generally were amicable; however, in some parts of the country, Islam's dominance created strong social pressure that discouraged non-Muslims from practicing their religion openly.

The Koniankes complained that the music from a Guerze baptism ceremony disturbed prayers at a nearby mosque. Police injured 10 persons and detained approximately 50 persons.

There were few Jewish persons in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, authorities at times infringed on them. The government requires all citizens to carry national identification cards, which they must present on demand at security checkpoints.

There was a noticeable decrease in the practice of police and security forces detaining persons at military roadblocks to extort money. At year's end only one roadblock remained in Conakry, on the road leading out of town. Some roadblocks remained in rural areas and in the Forest Region close to international borders.

Unlike in the previous year, the government did not ban opposition leaders from leaving the country.

The law does not prohibit forced exile, but the government did not use it.

Internally Displaced Persons (IDPs).—Although during the year the UN High Commissioner for Refugees (UNHCR), the International Organization of Migration, and the government reported that all IDPs were reintegrated, the Norwegian Refugee Council's February report indicated many IDPs did not return to their former homes. Throughout the year the IDP Consultative Forum distributed return and reintegration packages, but in some cases theft increased in IDP camps where these packages were delivered.

Protection of Refugees.—The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system of providing protection to refugees through an advisor on territorial issues within the Ministry of Territorial Administration. In practice the government did not always provide protection against *refoulement*, the return of persons to a country where they feared persecution, and did not always grant refugee status or asylum. The government cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

Many positive developments in the area of refugee repatriation occurred during the year. The UNHCR accommodated all refugees desiring voluntary return from the country. In January the UNCHR visited the country and offered financial support for the rehabilitation of communities severely affected after 16 years of hosting refugees.

The country has been a place of refuge for asylum seekers from the neighboring countries of conflict, including Liberia, Sierra Leone, Côte d'Ivoire, and Guinea Bissau. At year's end the National Bureau for Refugee Coordination estimated that the total refugee population left in the country was 63,264 persons; the vast majority reportedly were Liberians. The government agreed to facilitate the integration of approximately two thousand citizens of Sierra Leone who had chosen to remain in the country.

The government provided temporary protection to individuals who may not qualify as refugees under the 1951 UN convention or its 1967 protocol and provided it to approximately 45 persons of different West African nationalities.

There were also reports of rape, assaults, and forced prostitution in refugee areas. The American Refugee Committee reported that a woman was raped in front of her children by perpetrators from the host community. Tension continued between host communities and refugee populations because of disparities in living standards. Economic decline in the country exacerbated situations where refugees received basic services and opportunities unavailable to citizens.

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

The law provides for a popularly elected president and national assembly; however, the government restricted citizens' ability to exercise this right. Political reforms resulted in some improvements during the year.

Elections and Political Participation.—Despite openly acknowledged health problems, the president ran for reelection in December 2003, winning against a candidate who was virtually unknown. All major opposition parties boycotted the election, criticized by international observers as neither free nor fair. Although the municipal and local council elections were originally scheduled for June, they were held on December 18. The government held nationwide elections, and 16 of 46 registered political parties, including all the major opposition parties, participated. According to official results, President Conte's ruling PUP garnered approximately 80 percent of the vote with certified victories in 31 of 38 municipalities and 241 of 303 local councils. The PUP and associated parties held 91 of the 114 seats in the National Assembly.

The local electoral process was characterized by both improvements over past practice as well as serious flaws. Positive developments included freer campaigning, a single ballot listing all parties, transparent ballot boxes, political parties represented at the polling stations, media coverage of events, and free access for national observers. However, the turnout was low, and there were significant irregularities and bias by officials towards the ruling party before and during the vote. These included government revision of voter rolls with limited oversight, exclusion of up to 50 percent of the opposition candidate lists, unequal provision and distribution of voter registration cards and identity documents, and susceptibility to cheating in the district-level vote consolidations.

The government invited participation by the electoral commission, opposition parties and civil society in the electoral process. In practice it retained control of most registration and election procedures, including the casting and counting of votes. Despite pressure from opposition parties to change the constitution to enable an independent electoral commission to have full responsibility for organizing all aspects of elections and reporting the results of the vote, the government retained responsibility for organizing the elections, with the electoral commission validating the final results.

With few local exceptions, the National Autonomous Electoral Commission was ineffective. Political parties were unsuccessful in gaining judicial relief in some cases of alleged malfeasance.

The government engaged in a formal dialogue with opposition and non-opposition political parties, agreed to some demands for reform, and ceased restrictions on the travel of opposition leaders and the holding of rallies upcountry (see section 2.b.).

The law allows the president to run for an unlimited number of seven-year terms. There were 46 legally recognized political parties; deputies of 5 different parties were represented in the National Assembly. Only 1 opposition political party, the UPR, which had 20 seats, participated in the 114-member National Assembly. All of the other parties represented in the National Assembly joined the PUP government party alliance. Government employees are required to campaign for the ruling party in each election.

The president continued to hold the power to appoint governors, prefects, and sub prefects to administer regions, prefectures and sub prefectures, respectively. Most of these officials were members of the PUP or parties allied with it. Local governments generally had limited autonomy. Although they had some financial resources with which to fund local programs, most of their funds were controlled by the central government.

Prefects and other local officials who were members of opposition parties found that higher-level officials effectively blocked their authority. In some cases, they were forced to join the ruling PUP party or lose their jobs. Those who continued their allegiance to opposition parties were relocated to different prefectures far from their home communities. To prevent risking their livelihood, others chose to remain uninvolved in politics.

Elected and appointed government officials continued to be disproportionately male. There were 20 female deputies in the 114-member National Assembly. Six

women held seats in the 26-member cabinet. There were few women at senior levels below minister, and there were no women in the senior ranks of the armed forces. Women generally played a minor role in the leadership of the major political parties; however, Assiatou Bah was vice president of the UPR. The RPG named Fatou Bangoura to the post of political secretary.

Members of the three main ethnic groups (Soussou, Malinke, and Peuhl) as well as all smaller groups in the country (Gerze, Toma, Kisse, Koniake, and Mano) served in the National Assembly. The cabinet and armed forces leadership included representatives of all major ethnic groups. However, a disproportionate number of senior military officers were Soussou, the president's ethnic group.

Government Corruption and Transparency.—Corruption remained widespread throughout society, including in the executive, legislative, and judicial branches. The president holds powers to overrule legislative decisions and did so in practice. Connection to the president or his powerful associates sometimes conferred exemptions from taxes and other fiscal obligations. Public funds were diverted for private use or for illegitimate public uses, such as buying expensive vehicles for government workers. Land sales and business contracts lacked transparency.

The government and the World Bank published a critical report on corruption in the country during the year. Using polling data gathered in 2003, the report identified government agencies widely viewed as corrupt by citizens. It also identified how corruption affected everything from commercial transactions to judicial decision to civil service promotions. The report was released as part of a two-day conference on corruption and was then presented during similar meetings throughout the country. Businessmen, government workers, and average citizens were among the hundreds of persons surveyed in the study.

The Commission to Combat Corruption within the Ministry of Economic and Financial Control is located within the Office of the President. A public complaints bureau to report corruption was located on the premises of the commission in Conakry, but communication and coordination between the commission and the Ministry of Justice remained weak. There was much discussion of corruption in the media, but little action was taken during the year. One highly publicized corruption investigation involved prominent businessman Mamadou Sylla and allegations that he had defrauded the government over a period of several years through business transactions between his company, Futurlec, and the government. During the year the prime minister ordered an audit into those transactions, which revealed Sylla owed millions of dollars to the government because of over billing, double billing, and other suspect accounting procedures. Sylla refused to open his company's books to the auditor, and he denounced the result. Before any action could be taken, political allies of Sylla ordered a second audit, which found that it was the government that owed Sylla several million dollars. The issue remained unresolved at year's end.

There is no law providing free access to government information. Most government information is not available to the public, and there is no mechanism to request it formally. The government did provide free official information in the government-run press or through limited publications.

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

A number of local and international NGOs generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views; however, some local organizations alleged that government officials tried to intimidate them and that they often met resistance when trying to investigate abuses or engage in civil education.

Various government officials continued to block private efforts to memorialize victims of the Sekou Toure regime that ruled the country from independence until 1984. The Association of Victims of Camp Boiro was forbidden to establish a museum focusing on human rights in the former location of the prison where political detainees were tortured and killed.

The government cooperated with both the UNHCR and the ICRC. Unlike in previous years, there were no accusations that the government was complicit in abuses of Liberian refugees through its support of the Liberians United For Reconciliation and Democracy (LURD) rebels. In previous years LURD rebels had been accused of forced recruitment of Liberian refugees as well as infiltration of refugee camps such as Kouankan.

A human rights office within the Ministry of Defense, the Office of International Humanitarian Rights, in conjunction with the ICRC, conducted human rights semi-

nars during the year to teach military and security personnel about human rights recognized by international and regional agreements.

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

The law states that all persons are equal before the law regardless of gender, race, ethnicity, language, beliefs, political opinions, philosophy, or creed; however, the government did not enforce these provisions uniformly. Violence and discrimination against women, FGM, trafficking in persons, and discrimination against ethnic minorities were problems.

Women.—Domestic violence against women was common, although estimates differed as to the extent of the problem. Due to fear of stigmatization and reprisal, women rarely reported abuse except at the point of divorce. Wife beating is not addressed specifically within the law. Assault in general carries a penalty of up to 2 years in prison and a fine from \$11 to \$44 (50 thousand to 200 thousand francs). If the assault is premeditated the prison time increases from 2 to 5 years in prison and a fine of \$22 to \$66 (100 thousand to 300 thousand) and constitutes grounds for divorce under civil law; however, police rarely intervened in domestic disputes, and few perpetrators were punished.

On October 17, M'Baliala Soumah died as a result of injuries she sustained from a beating by her husband. He was arrested and was in prison awaiting trial at year's end.

Although rape is a criminal offense, in practice spousal rape is neither punished nor regarded as a criminal offense. Social beliefs prevented most rape victims from reporting incidents of rape. Local NGOs and government representatives reported that sexual assault increased during the year. According to a doctor at the central public hospital in Conakry, victims of sexual assault constituted 20 percent of all cases in hospital. Many of these assaults were perpetrated by a person the victim knew and often took place at school; more than half the victims were young girls. Several local NGOs worked to increase public awareness of the nature of these crimes and promote increased reporting. The authorities were reluctant to pursue criminal investigations of alleged sexual crimes.

FGM was practiced widely in all regions and among all religious and ethnic groups, and the country had one of the highest rates of FGM in the world. FGM is illegal and carries a penalty of three months in prison and a fine of approximately \$22 (100,000 francs), although there were no prosecutions during the year. Senior officials and both the official and private press spoke against the practice. FGM was performed on girls between the ages of 4 and 17, but exact figures on this procedure were difficult to establish. The Coordinating Committee on Traditional Practices Affecting Women's and Children's Health (CPTAFE), a local NGO dedicated to eradicating FGM and ritual scarring, cited a continuing decline in the percentage of women and girls subjected to the worst forms of FGM. The CPTAFE estimated 60 and 65 percent of girls were subjected to FGM.

Infibulation, the most dangerous form of FGM, was still performed in the Forest Region but less frequently than in previous years. Despite diseases resulting from crude and unsanitary surgical instruments and deaths resulting from the practice, the tradition continued, seriously affecting many women's lives. FGM also increased the risk of HIV infection, since unsterilized instruments were shared among participants.

The government continued efforts to educate health workers on the dangers of this procedure, and it supported the CPTAFE's efforts. The CPTAFE reported high rates of infant mortality and maternal mortality due to FGM. The government continued its plan to eradicate FGM, and government ministers, health officials, and the media discussed FGM more frequently, but there were no statistics evaluating the success of the program.

A growing number of men and women opposed FGM. Urban, educated families were opting increasingly to perform only a slight symbolic incision on a girl's genitals rather than the complete procedure. During the year the CPTAFE held large public ceremonies celebrating the "laying down of the excision knife," in which some traditional practitioners of FGM pledged to discontinue the practice; however, most of those who performed FGM opposed its eradication since the practice was lucrative. CPTAFE stressed the health consequences of excision while supporting the customary observance of the transition to womanhood through traditional dances and songs.

Although the government made regular statements in the media against sexual harassment, it is not against the law. Although women working in the formal sector in urban areas complained of frequent sexual harassment, it was not penalized by employers.

The law provides for equal treatment of men and women. The Ministry of Social Affairs and Women's Promotion worked to advance such equality; however, women faced discrimination throughout society. Women faced discrimination particularly in rural areas where opportunities were limited by custom and the demands of childrearing and subsistence farming. Women were not denied access to land, credit, or businesses, but inheritance laws favor male heirs over female heirs. Government officials acknowledged that polygyny was a common practice. Divorce laws generally tended to favor men in awarding custody and dividing communal assets. Legal evidence given by women carries less weight than testimony by men, in accordance with Islamic precepts and customary law. The government affirmed the principle of equal pay for equal work, although in practice women received lower pay than men.

On August 27, the government sponsored a seminar on women and microcredit to commemorate National Women's Day.

Children.—The law provides that the government should support children's rights and welfare, and the government allocated and spent a significant percentage of the budget on primary education. The minister of youth and the Ministry of Social Affairs were tasked by the president to defend women's and children's rights, and a permanent committee dedicated to defending the rights of the child, with members chosen from different ministries, NGOs, and other sectors, continued to work.

Government policy provides for tuition-free, compulsory primary school education for six years, but enrollment rates were low due to additional school fees and lax enforcement of laws mandating school attendance. Approximately 63 percent of all eligible students were enrolled in primary school, with a higher percentage of eligible boys enrolled compared with eligible girls. Gender equity was one of the main goals of the government plan, Education for All. The increase in girls' school enrollment was a result of several government programs to increase access to school and to promote girls' education. The net primary enrollment rate (NER) was the ratio of official school-age children enrolled in primary school to the total population of children of official primary school age, as defined by the national education system. The total NER for the 2004–2005 school year was 63 percent. For girls, the NER was 60 percent.

Child abuse, particularly sexual assault was a problem. Girls between the age of 11 and 15 years were most vulnerable and represented 55 percent of the victims. In February a teacher raped a nine year-old-girl in Sangoyah. The teacher's salary was reduced by 20 percent with this amount being paid to care for the victim. The perpetrator pled guilty, was released from prison, and returned to his teaching job.

FGM was performed commonly on girls (see section 5, Women).

The legal age for marriage is 21 years for men and 17 years for women. Although there were no official reports of underage marriage, it allegedly was a problem. Parents contracted marriages for girls as young as 11 years of age in the Forest Region. The CPTAFE, in conjunction with the government, local journalists, and international NGOs, continued to promote an education campaign to discourage underage marriage and reported lower rates than in previous years. According to CPTAFE, some families that sanctioned early marriages nevertheless kept their married daughters in the family home until they had at least completed secondary school.

There were reports that girls were trafficked for prostitution and other labor (see section 5, Trafficking).

The International Rescue Committee and UN Children's Fund (UNICEF) reported that children living in foster families often did not receive adequate food, shelter, and clothing and were compelled to work in the streets, sometimes as prostitutes, for their subsistence.

Trafficking in Persons.—Although the law prohibits trafficking in persons, the country was a source, transit, and destination point for trafficking. The law carries a penalty of 5 to 10 years' imprisonment and confiscation of any money or property received as a result of trafficking activities.

The Interministerial Committee to Combat Trafficking in Persons was created by the government to better coordinate their antitrafficking efforts. It comprised representatives from the Ministry of Social Affairs and the Promotion of Women, and the ministries of children, justice, security, and tourism. The committee held several educational seminars during the year and on November 14 held a roundtable to evaluate progress made on the 2004 National Action Plan to Combat Trafficking in Persons. The roundtable report concluded that significant progress was made in prevention, data collection, and awareness.

Efforts to draft and ratify antitrafficking legislation were underway along with programs to strengthen law enforcement capacity. However, while certain projects

focused on victim protection, lack of funding prevented more effective work, particularly repatriation, accompaniment, and case follow-up.

There has only been one alleged trafficking case turned over to the Ministry of Justice. In April a Malian woman, accused of trafficking in 2004, was deported rather than prosecuted. There were no developments in the 2004 case of a Sierra Leonean child trafficking ring.

On June 16, the government signed a bilateral agreement with Mali to combat child trafficking. On July 27, the government signed a multilateral agreement with nine nations in the region to increase cooperation, harmonize antitrafficking legislation, and exchange information.

Some NGOs reported that women, men, and children were trafficked within the country, as well as internationally, for the sex trade and illegal labor. Trafficking in persons from rural areas, mainly from the poorest areas in Upper Guinea, to urban centers was more common than international trafficking. As NGOs and the government increasingly recognized trafficking within the country, more emphasis was placed on this practice in the December launch of a national awareness campaign by UNICEF to combat trafficking. Accurate statistics were difficult to obtain because victims did not report the crime.

Some children were trafficked for forced labor in agriculture and diamond mining camps and for household work in Conakry. NGOs claimed that the country was frequently a transit route for a West African trafficking network, because fraudulent passports can be easily obtained and no visas are required for local nationals to travel to certain North Africa countries. From these nations, children were then sent to destinations in Europe.

Girls under the age of 14 were involved in prostitution. The government did not take action when prostitution of minors was brought to its attention, and it did not actively monitor child or adult prostitution.

The ICRC reported that trafficking of children was a problem among repatriates from Sierra Leone and Liberia, some of whom hoped to gain advantage from reunification projects intended to reconstitute families separated through war.

Persons with Disabilities.—The law does not prohibit discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. In practice there were no official reports of societal or governmental discrimination against person with disabilities. The government had not mandated accessibility for persons with disabilities, and buildings and vehicles remained inaccessible. Few persons with disabilities worked in the formal sector. Some worked in the informal sector in small family-run businesses, and many lived by begging on the streets.

In April the government, in cooperation with an international donor, launched a national civic education program that included persons with disabilities as well as persons with HIV/AIDS. One of the programs for persons with disabilities was staged at the School for the Deaf of Conakry. The program, in American Sign Language, explained concepts of citizenship, nationality, and equal participation.

National/Racial/Ethnic Minorities.—The country's population was ethnically and regionally diverse. The Peuhls were the largest ethnic groups (approximately 40 percent of the population), followed by the Malinke (approximately 30 percent), and the Soussou (approximately 20 percent). There were several smaller ethnic groups in the Forest Region. Each group spoke a distinct primary language and was concentrated in a distinct region: the Soussou in lower Guinea, the Peuhl in middle Guinea, and the Malinke in upper Guinea. Conakry and other large urban areas such as Kankan and the Forest Region were ethnically heterogeneous.

While the law prohibits racial or ethnic discrimination, ethnic identification was strong.

Mutual suspicion, both inside and outside the government, affected relations across ethnic lines. Widespread societal ethnic discrimination by members of all major ethnic groups was evident in private sector hiring patterns, in the ethnic segregation of urban neighborhoods, and in the relatively low levels of interethnic marriage. The proportion of public sector positions occupied by Soussous, particularly at senior levels, was widely perceived as exceeding their share of the national population.

The ruling PUP party, although generally supported by Soussous, transcended ethnic boundaries more effectively than the major opposition parties, which have readily identifiable ethnic and regional bases. The UPR's main base was the Peuhls, while the RPG's main base was the Malinke. Soussou preeminence in the public sector and Malinke migration into the traditional homelands of smaller ethnic groups in the Forest Region were sources of local political tensions that sometimes erupted into violence.

On July 21, a Peuhl living in Kankan shot and killed a young Malinke, mistaking him for a robber. Malinke youth pillaged stores owned by a Peuhl business person, and tensions between the two communities increased. Security forces established order in the area without the use of extreme force.

Other Societal Abuses and Discrimination.—Discrimination against homosexuals is not prohibited by law, and there are no discriminatory laws based on sexual orientation. There were no reports of either the police or government agents perpetrating violence against persons with HIV/AIDS or homosexuals. Although there were deep social, religious, and cultural taboos against homosexuality, there were no official reports of discrimination against homosexuals.

There have been reports that various hospitals in the country have refused to treat patients with AIDS; hospital workers feared contracting the disease.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of employees, except for military and paramilitary personnel, to form and join independent labor unions, and this right was respected in practice. The labor code requires elected worker representatives for any enterprise employing 25 or more salaried workers. Approximately 160 thousand workers were reported as unionized, although there were inadequate labor statistics. Approximately 52 thousand were government workers and thus automatically members of the National Federation of Guinean Workers, the government union. The largest independent union, Union of Workers of Guinea, claimed 66 thousand members, 20 thousand of which were women. During the year five unions remained active.

Although the law prohibits antiunion discrimination at regional and prefecture levels, unionized labor faced strong opposition from government officials. Union officials were selected on the basis of nepotism and patronage; these individuals were not sensitized to the rights of workers and often viewed unions as an enemy of the government. As a result union members in the interior of the country faced harassment and interference from many governors and prefects. Union activities in Conakry faced less harassment and interference. Individual workers threatened with dismissal or other sanctions have the right to a hearing before management with a union representative present and, if necessary, to take the complaint to the Conakry Labor Court, which convened weekly to hear such cases. In the interior, civil courts heard labor cases.

b. The Right to Organize and Bargain Collectively.—Under the labor code, representative workers' unions or union groups may organize in the workplace and negotiate with employers or employer organizations, and workers exercised this right in practice. The law protects the right to bargain collectively concerning wages and salaries without government interference, and employers established rules and hours of work in consultation with union delegates. There are no export processing zones.

The law grants salaried workers, including public sector civilian employees, the right to strike 10 days after their representative union makes known its intention to strike, but strikes were sometimes met with intimidation from security forces and, as a result, often did not take place. In addition, the law prohibits strikes in sectors providing "essential services," which include hospitals, radio and television, army, police, communications, and transport services. There were reports that government officials offered better positions and political posts to members of labor unions in exchange for ceasing strike activities.

On February 7, commercial drivers went on strike to protest roadblocks set up after the attempted assassination of President Conte. Police arrested nine drivers and released them after they paid a fine. On February 14, police from the Anti-Gang Brigade responded to a call from a local hotel operator. The police beat the workers who were demanding severance payments from the employer.

In July the government pressured two leaders of the teachers' union coalition to retire. One instructor had three years of eligibility remaining and the other had nine years. With support from the union, they did not retire by year's end.

Some internationally funded NGOs experienced labor disputes with local employees that were often contrived. There were documented accounts of government officials who sought bribes from, harassed, or otherwise threatened expatriate officials for these alleged labor infractions.

c. Prohibition of Forced or Compulsory Labor.—Although the law specifically prohibits forced or compulsory labor, including by children, there were reports that such practices occurred (see sections 5 and 6.d.).

The law prohibits the exploitation of vulnerable persons for unpaid or underpaid labor. Violations carried a penalty of 6 months to 5 years imprisonment and a fine

of approximately \$11 to \$85 (50 thousand to 382,500 francs). The government did not enforce this provision in practice.

d. Prohibition of Child Labor and Minimum Age for Employment.—The general labor code has specific provisions that pertain to child labor; however, child labor was a serious problem. By law the minimum age for employment is 16 years. Apprentices may start to work at 14 years of age. Workers and apprentices under the age of 18 were not permitted to work at night, for more than 10 consecutive hours, or on Sundays. The labor code also stipulates that the minister of labor and social affairs maintain a list of occupations in which women and youth under the age of 18 cannot be employed. In practice enforcement by ministry inspectors was limited to large firms in the modern sector of the economy.

Overall, approximately 48 percent of children under age 15 were employed, accounting for approximately 20 percent of the total working population and 26 percent of agricultural workers. Child labor in factories was not prevalent because of the low level of manufacturing. Working children were mostly in the informal sector areas of subsistence farming, small-scale commerce, and mining.

Girls as young as age 14 engaged in prostitution (see section 5). The worst forms of child labor were found in the artisanal mining sector, where children hauled granite and sand for little or no money.

Many young Muslim children sent to live with a Koranic master for instruction in Arabic, Islam, and the Koran worked for the teacher as payment. Children often were sent from rural areas to Conakry to live with family members while they attended school. If the host family was unwilling or unable to pay school fees, the children sold water or shined shoes on the streets, and the host family took the money in exchange for their room and board or simply used the child as a cheap source of domestic labor (see section 5).

There were reports that forced and compulsory child labor occurred (see section 5).

The government has spoken out against child labor but lacked the resources, enforcement mechanisms, and legislative will to combat the problem. As a result child laborers did not have access to education or health care and suffered from chronic malnutrition, traumatic stress, and depression.

e. Acceptable Conditions of Work.—The labor code allows the government to set a minimum hourly wage; however, the government has not exercised this provision nor does it promote a standard wage. Prevailing wages often did not provide a decent standard of living for a worker and family.

The labor code mandates that regular work should not exceed 10-hour days or 48-hour weeks, and it also mandates a period of at least 24 consecutive hours of rest each week, usually on Sunday. Every salaried worker has the legal right to an annual paid vacation, accumulated at the rate of at least two workdays per month of work. There also were provisions in the law for overtime and night wages, which were fixed percentages of the regular wage. In practice the authorities enforced these rules only in the relatively small modern urban sector. Little evidence showed that the government monitored employers' work practices or sanctioned them for failure to follow the law.

Worker conditions were worse in the private sector, excluding banking, insurance, and other similar institutions. Employees often were fired if they joined a union (see section 6.a.).

The teachers' union reported that working conditions were deplorable. Teacher wages were extremely low and not always paid on time, if they were paid at all. In some cases teachers went six months or more without salaries. Local Ministry of Finance employees charged with administering teacher pay allegedly withheld the salaries and used the funds for personal business. Some teachers lived in abject poverty, reporting to work without shoes and even the minimum requirements to do their jobs.

The labor code contains general provisions regarding occupational safety and health, but the government has not elaborated a set of practical workplace health and safety standards. Moreover, it has not issued any ministerial orders laying out the specific requirements for certain occupations and for certain methods of work that are called for in the labor code. The Ministry of Labor and Social Affairs is responsible for enforcing labor standards, and its inspectors are empowered to suspend work immediately in situations hazardous to health. Enforcement efforts were sporadic. Labor inspectors acknowledged that they did not have adequate resources to cover even Conakry, much less the entire country.

Under the labor code, workers have the right to refuse to work under unsafe conditions without penalty; however, many workers feared retaliation should they refuse to work under unsafe conditions.

GUINEA-BISSAU¹

Guinea-Bissau is a multiparty republic with a population of approximately 1.3 million. On July 24, João Bernardo “Nino” Vieira was elected president, narrowly defeating Malam Bacai Sanha, the candidate of the ruling African Party for the Independence of Guinea-Bissau and Cape Verde (PAIGC). The presidential election, which international observers characterized as free and fair, represented another milestone in the country’s return to constitutional government. Civilian authorities generally maintained effective control of the security forces; however, soldiers loyal to former president Kumba Yala briefly occupied the presidential residence on May 24 and attacked the Interior Ministry on July 16.

The government generally respected the human rights of its citizens; however, there were problems in some areas. Poverty, pervasive underemployment, disease, and inadequate pay for public servants contributed to the country’s human rights problems, which included:

- violent dispersal of demonstrations
- poor prison conditions
- official corruption and impunity
- violence and discrimination against women
- female genital mutilation (FGM)
- child labor, including some forced labor, and
- child trafficking

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Unlike in the previous year, the government or its agents did not commit any politically motivated killings; however, on June 23, police shot and killed demonstrators (see section 2.b.).

On May 24, soldiers loyal to former president Yala occupied the presidential residence for several hours and demanded that Yala be reinstated as president. In a similar July 16 incident, approximately 20 soldiers believed to be loyal to Yala attacked the Interior Ministry, killed 2 security guards, and injured a third. No arrests were made, and the perpetrators had not been identified by year’s end.

There were no developments in the October 2004 killing by military mutineers of former Defense Chief General Verissimo Correia Seabra and Colonel Domingos de Barros; the soldiers responsible for the killings had not been identified by year’s end.

There were no developments in the 2003 case of Army Second Lieutenant Mussa Cassama, who died from injuries inflicted during torture.

Unlike in the previous year, there were no deaths from landmines or unexploded ordnance.

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. The government rarely punished members of the security forces who committed abuses.

On July 16, soldiers attacked the Interior Ministry, which resulted in deaths and injury (see section 1.a.).

The military mutineers who beat and abused senior officers in October 2004 had not been identified by year’s end.

There were no developments in the 2004 reported road rage incident involving the former Deputy Chief of Defense.

¹In June 1998, the United States Embassy suspended operations in the midst of heavy fighting in Guinea-Bissau, and all official personnel in the country were evacuated. This report is based on information obtained by U.S. embassies in neighboring countries, especially Senegal, from other independent sources, and regular visits to Guinea-Bissau by U.S. officials assigned to the U.S. Embassy in Dakar. The U.S. Ambassador to Senegal, resident in Dakar, is also accredited to Guinea-Bissau.

Demining operations continued; however, unlike in the previous year, landmines and unexploded ordnance did not result in deaths or injury.

Prison and Detention Center Conditions.—Prison conditions remained poor. There were no formal prisons, and the government detained most prisoners in makeshift detention facilities on military bases in Bissau and neighboring cities. Detention facilities generally lacked running water and adequate sanitation. Detainees' diets were poor, and medical care was virtually nonexistent. Pretrial detainees were not held separately from convicted prisoners.

The government generally permitted independent monitoring of prison conditions by local and international human rights groups. During the year representatives from the Red Cross and the Office of the Representative of the UN Secretary General visited prisoners.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, police arbitrarily arrested and detained demonstrators (see section 2.b.).

Role of the Police and Security Apparatus.—The police, under the direction of the Ministry of the Interior, have primary responsibility for the country's internal security. The armed forces are responsible for external security and can be called upon to assist the police in internal emergencies.

The country is divided into 37 police districts; there were an estimated 600 police in the country. Impunity and corruption were rampant, and police generally were ineffective. Transit police were particularly corrupt and demanded bribes from vehicle drivers whether their documents were in order or not. Police were poorly and irregularly paid, and there was a severe lack of resources and training. The attorney general was responsible for investigating police abuses, but no investigations occurred during the year.

Arrest and Detention.—The law requires arrest warrants and provides for the right to counsel, and, if indigent, to one provided by the state; the right to release if no timely indictment is brought; and the right to a speedy trial. However, authorities did not respect these rights in practice. There was a functioning bail system.

Unlike in the previous year, no human rights activists were detained during the year.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the judiciary continued its 2004 efforts to establish its independence; however, judges were poorly trained and paid and sometimes were subject to corruption.

Civilian courts conduct trials involving state security. Under the Code of Military Justice, military courts only try crimes committed by armed forces personnel. The Supreme Court is the final court of appeal for both military and civilian cases. The president has the authority to grant pardons and reduce sentences.

Trial Procedures.—The law provides for the right to a fair trial, and the judiciary generally enforced this right. There is no trial by jury, but the law provides for a presumption of innocence and the right to timely access to an attorney, to question witnesses, to have access to evidence held by the government, and to appeal. Citizens who cannot afford an attorney have the right to a court-appointed lawyer.

Traditional practices still prevailed in most rural areas, and persons who lived in urban areas often brought judicial disputes to traditional counselors to avoid the costs and bureaucratic impediments of the official system. The police often resolved disputes.

Political Prisoners.—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. Unlike in the previous year, there were no reports that security forces arrested persons for exercising their right of free speech.

In addition to the government-owned newspaper *No Pintcha*, several private newspapers published without restriction. All newspapers published sporadically during the year due to financial constraints and dependence on the state-owned printing house. The national printing press often lacked raw materials.

There were several independent radio stations and a national television stations. There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, the government did not always respect this right in practice. Permits were required for all assemblies and demonstrations.

On June 23, police intercepted approximately 200 Social Renovation Party (PRS) youth demonstrators and fired into the crowd; the demonstrators were walking to the National Elections Commission to demand the results of the presidential election. Three protesters were killed, and a fourth subsequently died of injuries inflicted by the police. Eleven demonstrators, including PRS Secretary-General Artur Sanha, were arrested and detained until June 26. No action was taken against the police, who claimed that the government had not authorized the demonstration.

Freedom of Association.—The law provides for the right of association, and 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. However, in March the government prohibited activity by the Ahmadiya, an Islamic religious group. Although the government must license religious groups, there were no reports that any applications were refused.

Societal Abuses and Discrimination.—During the year, feuding leaders of the country's mainstream Muslim community and converts to the Ahmadiyya sect used local radio to incite their followers. On February 16, a Muslim leader broadcast a call to his followers to meet at the courthouse in Gabu, which hundreds did. The crowd subsequently beat and detained four Ahmadiyya believers and attacked local police who were trying to control the situation. No action was taken against the perpetrators by year's end.

There is no Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 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 did not specifically prohibit forced exile; however, the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not grant refugee status or asylum during the year. The government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The UNHCR reported that the government was tolerant of refugees and permitted them to engage in economic activities to support themselves. There were approximately seven to eight thousand refugees from Casamance region of Senegal living within the country.

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 through free and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—On July 24, Joao Bernardo Vieira, the country's former military ruler, defeated ruling PAIGC candidate Malam Bacai Sanha in a run-off presidential election. President Vieira replaced Henrique Pereira Rosa, who headed the previous civilian transition government. Bacai appealed the election results to the Supreme Court, which on August 19 upheld Vieira's victory. The election, which international observers declared free and fair, constituted a major step in the country's return to constitutional government that began with the 2003 removal of former president Kumba Yala, who had ruled by decree and undermined democratic institutions.

In March 2004 legislative elections were held for the 100-seat National Popular Assembly (ANP), which had been dissolved in 2002 by former president Yala. The PAIGC won with a plurality of 45 seats, and Carlos Domingos Gomes Junior was appointed Prime Minister. International observers deemed the elections free and fair.

There were 14 women in the 100-seat ANP. The supreme court chief justice, 2 of the country's 19 government ministers, and 1 of 9 state secretaries also were women.

All ethnic groups were represented in the government.

Government Corruption and Transparency.—Official corruption and lack of transparency were endemic at all levels of government. Customs officers frequently accepted bribes for not collecting import taxes, which greatly reduced government revenues.

The law provides that “everyone has the right to information and judicial protection”; however, such access was seldom provided.

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 somewhat cooperative and responsive to their views. The government did not arrest human rights activists during the year.

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

The law prohibits discrimination on the basis of sex and race; however, the government did not enforce these provisions effectively.

Women.—Domestic violence, including wife beating, was an accepted means of settling domestic disputes. There was no law that prohibited domestic violence, and politicians were reportedly reluctant to address the subject for fear of alienating more traditional voters or particular ethnic groups. Although police intervened in domestic disputes if requested, the government had not undertaken specific measures to counter social pressure against reporting domestic violence, rape, incest, and other mistreatment of women.

The law prohibits rape, but government enforcement was limited, in large part because of lack of resources.

Certain ethnic groups, especially the Fulas and the Mandinkas, practiced FGM. The practice has increased as the Muslim population has grown and was performed not only on adolescent girls, but also on babies as young as four months old. The government has not outlawed the practice; however, a national committee and international and domestic nongovernmental organizations (NGOs) continued to conduct a nationwide education campaign to discourage FGM.

Sinim Mira Nassique, a local NGO, runs alternative FGM summer camps for young girls throughout the country. During the summer girls attended camps in Farim, Buba, and Gabu, where they experienced all traditional initiation rights except excision. The camps, which taught the dangers of FGM, also provided training in hygiene, sewing, embroidery, and other skills.

The law prohibits prostitution, but enforcement was weak.

There was no law prohibiting sexual harassment, and it was a problem.

The law treats men and women equally and prohibits discrimination; however, discrimination against women was a problem, particularly in rural areas where traditional and Islamic law were dominant. Women were responsible for most work on subsistence farms and had limited access to education, especially in rural areas. Women did not have equal access to employment. Among certain ethnic groups, women cannot own or manage land or inherit property.

Children.—The government allocated limited resources for children’s welfare and education. Public schooling was universal, compulsory until seven years of age, and free through the fourth grade. A 2003 UN Development Program study indicated that 60 percent of school-age children did not attend school, in large part because schools were closed for most or all of 2003 as a result of the government’s failure to pay teachers’ salaries.

FGM was performed commonly on young girls and sometimes even infants (see section 5, Women).

Child marriage occurred among all ethnic groups, but no reliable data existed to quantify the problem. Girls who fled arranged marriages often were forced into prostitution to support themselves. Local NGOs worked to protect the rights of women and children and operated programs to fight child marriage and to protect the victims of child marriage.

Child trafficking occurred (see section 5, Trafficking).

Trafficking in Persons.—The law does not prohibit trafficking in persons, and there were reports that children were trafficked from or within the country. The government has not prosecuted any cases against traffickers. The Ministry of Interior has responsibility for antitrafficking efforts; however, the government had no national plan to combat trafficking or the capability to monitor, interdict, or prosecute traffickers.

Some boys sent from rural areas to attend Koranic schools in Senegal reportedly were exploited and forced to beg to earn money for the school leadership. The practice of buying and selling child brides also reportedly occurred on occasion.

There were reports that customs, border guards, immigration officials, labor inspectors, or local police may have been bribed to facilitate such trafficking; however, no specific information was available.

Neither the government nor NGOs assisted trafficking victims.

Persons with Disabilities.—The law does not specifically prohibit discrimination against persons with disabilities, mandate building access for them, or provide for equal access to employment and education; however, there were no reports of overt societal discrimination. The government has made some efforts to assist military veterans with disabilities through pension programs, but these programs did not adequately address veterans' health, housing, and food needs.

Section 6. Worker Rights

a. The Right of Association.—The law provides all civilian workers with the freedom to form and join independent trade unions, and workers exercised this right in practice. The vast majority of the population worked in subsistence agriculture; only a small percentage of workers were in the wage sector and organized. Most union members were government or parastatal employees.

The law does not prohibit antiunion discrimination; however, no workers alleged antiunion discrimination, and the practice was not believed to be widespread.

b. The Right to Organize and Bargain Collectively.—The law does not provide for or protect the right to bargain collectively; however, the tripartite National Council for Social Consultation conducted collective consultations on salary issues. Most wages were established in bilateral negotiations between workers and employers. There are no export processing zones.

The law provides for the right to strike and protection for workers from retribution for strike activities, and workers exercised this right during the year. The only legal restriction on strike activity was a prior notice requirement.

During the previous year, soldiers returning from a peacekeeping mission in Liberia mutinied to protest salary arrears and poor living conditions; two officers were killed, and several were injured. No action was taken against the responsible soldiers. During the year the government addressed the soldiers' concerns by paying wage and allowance arrears and by appointing a defense chief acceptable to the mutineers.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, but there were reports such practices occurred (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—There were no specific laws that protected children from exploitation in the workplace, and child labor occurred. The legal minimum age is 14 years for general factory labor and 18 years for heavy or dangerous labor, including all labor in mines. The small formal sector generally adhered to these minimum age requirements; however, the Ministry of Justice and the Ministry of Civil Service and Labor did not enforce these requirements in other sectors.

Children in cities often worked in street trading, and those in rural communities did domestic and field work without pay; children generally performed such labor to support families or because of a lack of educational opportunities. The government had not taken action to combat such practices by year's end.

e. Acceptable Conditions of Work.—The government's Council of Ministers annually establishes minimum wage rates for all categories of work, but it did not enforce them. The lowest monthly wage was approximately \$35 (19,030 CFA) per month plus a bag of rice. This wage did not provide a decent standard of living for a worker and family, and workers had to supplement their incomes through other work, reliance on the extended family, and subsistence agriculture.

In 2004 the government resumed paying the salaries of its teachers, civil servants, and medical practitioners after years of arrearages; however, the government again failed to regularly pay its public servants during the year.

The law provides for a maximum 45-hour workweek, but the government did not enforce this provision. The law also provides for overtime pay, provided that it does not exceed 200 hours per year, and a mandatory 12-hour rest period between workdays.

With the cooperation of the unions, the ministries of justice and labor establish legal health and safety standards for workers, which the ANP then adopts into law; however, these standards were not enforced, and many persons worked under condi-

tions that endangered their health and safety. Workers do not have the right to remove themselves from unsafe working conditions without losing their jobs.

KENYA

Kenya is a republic with a population of approximately 34 million and is dominated by a strong presidency. The President is both the chief of state and head of government. In 2002 citizens elected Mwai Kibaki of the opposition National Rainbow Coalition (NARC) as the country's third president. Kibaki succeeded Daniel Arap Moi, who led the former ruling party, the Kenya African National Union (KANU), and who served as president from 1978 to 2002. During the 2002 general elections, KANU which had controlled both the presidency and the parliament continuously since 1963, lost its parliamentary majority to NARC, a coalition of more than a dozen political parties. Observers concluded that the elections reflected the popular will and were free and fair. While civilian authorities generally maintained effective control of the security forces, there were some instances in which the security forces acted independently of government authority.

The government in many areas respected the human rights of its citizens or attempted to institute reforms to address deficiencies. However, serious problems remained, particularly with regard to abuses by the police service. The following human rights problems were reported:

- unlawful killings by police
- police beatings and torture of detainees
- impunity
- harsh and life-threatening prison conditions
- arbitrary arrest and detention
- use of excessive force
- prolonged pretrial detention
- executive interference in the judiciary
- restrictions on freedom of speech, the press, and assembly
- government corruption
- abuse of and discrimination against women
- female genital mutilation (FGM)
- child prostitution and labor
- trafficking of persons
- vigilante justice and interethnic violence
- lack of enforcement of workers' rights

On November 21, the government held its first national referendum for a proposed constitution. The citizens accepted the referendum result—57 percent opposed. Election observers did not witness any serious incidents of intimidation or violence, and stated the referendum process was peaceful and professional. In addition the government consolidated and extended some of the human rights reforms it had taken the previous two years. For the third straight year, there were no politically motivated arrests or disappearances, and prison visits by human rights groups increased.

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 that the government or its agents committed politically motivated killings during the year; however, security forces did commit arbitrary or unlawful killings. On March 15 a special committee of parliament prepared a report, issued on May 12, implicating a sitting minister, a prominent Nairobi businessman, and several government officials in the 1990 murder of the Foreign Minister Robert Ouko. The committee did not present its findings to parliament by year's end.

The Independent Medico Legal Unit (IMLU), a leading human rights nongovernmental organization (NGO), reported that police officers killed 196 persons as of June (compared with 47 in 2004). The IMLU concluded that all 196 of these deaths were unlawful. Thirty of these occurred while the deceased were in police custody and showed evidence of torture—compared with 40 in 2004 (see section 1.c.).

There were reports of summary police executions. On March 15, several witnesses reported that Nairobi police officers dragged three robbery suspects out of their car, forced them to lie down on their stomachs, and then shot them to death. There were no arrests or charges against the police by year's end.

On March 21, the minister of internal security issued a "shoot-to-kill" order against anyone found in possession of an illegal firearm; later that month, the minister explained that he meant for officers only to defend themselves if fired upon.

Police shot to death 5 reportedly unarmed men in separate incidents: in Nairobi (May 14), Mombasa (May 28), and Central Province (May 29 and 30). Nine police officers were detained for questioning in two of the shootings; some were released, some trials were ongoing, and at least one officer remained under arrest at year's end.

In June the Parliamentary Committee on National Security summoned the commissioner of police to explain why the police had recently killed so many individuals. No reports were published by year's end.

Law enforcement officials maintained that security forces usually were justified in their use of deadly force because of the heavily armed, violent criminals they often encountered. Police claimed that criminals' frequent use of sophisticated weapons had increased the risks faced by police in performing their duties.

There were no developments in the March 2004 murder trial against six prison guards accused of killing six prisoners in the central part of the country in 2000. But there were three civil suits pending against the state at year's end.

There were no developments in the following 2004 cases: the February police shooting of Purity Mburu; the February police killing of a secondary school student in Kisii; the May police beating to death of a man with mental disabilities in Mwingi District; and the July summary execution of seven persons in Kisii.

There were fewer reports that persons died while in police custody or shortly after. On June 8, a court charged a number of wardens in the 2000 case of seven death row inmates in King'ong'o prison who had died in suspicious circumstances. Prison authorities claimed they fell from a 24-foot fence while trying to escape, but a medical report indicated that the men were probably beaten to death because their injuries were inconsistent with a fall. There were no convictions by year's end.

The investigation into the September 2004 killing of five prisoners at Meru G.K. Prison was ongoing at year's end.

There were no developments in the November 2004 medical report that concluded an inmate in Naivasha maximum security prison was beaten to death before being hanged to give the impression of a suicide.

On January 24, five police officers accused of torturing to death Paul Kimani Wambiru in 2002 were acquitted of all charges after spending two years in pretrial detention. An autopsy on the victim established that Kimani had died from trauma resulting from a beating, but the prosecution failed to link the five officers to Kimani's death.

On January 10, a Nairobi court acquitted six police officers on trial for torturing three suspects accused of the 2003 killing of Crispin Odhiambo Mbai, the chairman of the Devolution Committee of the National Legal Conference. On April 7, the three suspects were themselves acquitted of Mbai's murder.

On December 31, the Kenya Ports Authority District Investigation Officer, Hassan Ahmed Abdillahi, was killed. Abdillahi was involved in the investigation of governmental corruption linked to international narcotics and other contraband trafficking through the port. The investigation of his killing had just begun at year's end.

During the year, police at times used excessive force to disperse demonstrations and strikes, which resulted in deaths (see section 2.b.).

There were numerous instances of mob violence and vigilante justice. The great majority of victims killed by mobs were suspected of criminal activities, including robbery, killings, cattle rustling, and membership in terror gangs. The government rarely made arrests or prosecuted the perpetrators of these acts.

On January 10, a mob in Nairobi stoned to death a man they caught sodomizing a minor; another mob killed a man caught stealing a mobile phone and about \$50 (3,650 shillings) in cash.

On April 5, villagers in the Kiambu District killed a 17-year-old-boy and set his body on fire after the boy was caught stealing household goods.

On April 25, a mob beat to death a man in Meru District who allegedly had sodomized a 13-year-old boy.

On June 20, residents of Kisumu stoned to death a gang member who had attempted to steal a two-month-old baby.

On August 12, a mob in Molo killed a man who had locked his parents inside a grass-thatched house and set it on fire.

Human rights observers attributed mob violence to a lack of public confidence in police and the judicial process. The social acceptability of mob violence also sometimes provided cover for personal vengeance and the settling of land disputes.

Mob violence against individuals suspected of witchcraft was a problem, particularly in Kisii, Luo Nyanza, and Western Province. Human rights NGOs noted a reluctance to report such cases due to fear of retribution.

The *Mungiki*, a banned cultural and political movement and criminal protection racket based in part on Kikuyu traditions, was less organized and was implicated in fewer violent crimes than in the past due to a police crackdown. On February 10 and March 1, a total of 37 *Mungiki* members were released for lack of evidence in their murder charges.

On May 9, the high court acquitted for lack of evidence 11 *Mungiki* members who had been arrested in 2004 on various charges including the killings of a police officer and *Mungiki* defectors.

By year's end police arrested approximately 24 suspected *Mungiki* members in connection with an upsurge in transportation sector crimes.

Interethnic violence continued to cause numerous deaths (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 law prohibits such practices and the government took steps to eliminate prisoner abuse. There were documented instances of police using physical violence and torture during interrogations and as punishment of both pretrial detainees and convicted prisoners.

Detainees frequently claimed that they had been tortured or abused, making it difficult to separate real from fabricated incidents. But human rights organizations, churches, and the press highlighted and criticized numerous cases of torture and several cases of indiscriminate police beatings. The IMLU received 397 cases alleging torture at the hands of security officers, an increase from the 304 allegations IMLU received in 2004. According to the IMLU, a common form of torture was *falanga*, the beating of the feet and joints while the feet and hands were handcuffed and the victim was suspended upside down. Another method included placing a metallic drum over the victim's head and shooting at the drum.

The IMLU reported that cases of police torture resulted in death (see section 1.a.). Since the police themselves were responsible for investigating and prosecuting most crimes, reports from IMLU and other human rights organizations that provided evidence of torture by security forces were routinely ignored.

In February Salim Elijah Masinde, an inmate in Kamiti Prison told IMLU he had been severely beaten while in custody since 1988. A doctor's examination revealed that he had been abused. An IMLU investigation was ongoing at year's end and Masinde remains in prison.

There were no developments in the May 2004 case of Margaret Muthoni Murage who miscarried after being detained.

There were no developments in the June 2004 case of David Ndegwa Kimemia who suffered a broken leg while in custody. On May 4, Ndegwa was acquitted of abusing a local chief due to lack of evidence.

Police occasionally used excessive force, which resulted in deaths and injuries, to disperse demonstrations and strikes (see section 2.b.).

Police occasionally abused street children (see section 5).

There were some allegations of rape by security forces. On June 15, citizens complained that soldiers raped women as they were evicting the women from illegal settlements in the Mau forest earlier in the month. No investigations had occurred by year's end.

Acts of violence, including rape, banditry, and shootings, occurred frequently near refugee camps (see section 2.d.).

Prison and Detention Center Conditions.—Prison conditions continued to be harsh and life threatening, although the government made some improvements in prison conditions. Most prisons, especially the men's facilities, continued to be severely overcrowded. In September 93 prisons housed 50 thousand inmates, a decrease from 2004, but still more than three times their intended capacity of 16 thousand. Overcrowding in some prisons was more severe; Meru prison had three times as many inmates as its intended capacity. To decrease congestion, the government began sentencing petty offenders to community service, imposing fines rather than confinement, and offering probation, but the implementation of this program was too slow and weak to effectively address overcrowding. Prison overcrowding was also due to a backlog of cases in the judicial system (see section 1.d.).

Reforms begun in 2003 improved conditions in some prisons. All women's prisons, and some men's prisons, opened or expanded health clinics during the year. Some

facilities received expanded access to academic classes, enabling a number of inmates to sit for national exams, or vocational training, such as carpentry or tailoring. Charitable associations organized occasional medical clinics for inmates.

Prisoners generally received three meals per day, but portions were inadequate, and prisoners were sometimes given half rations as punishment. Water shortages continued to be a problem.

Civil society organizations began visiting prisons in 2003, and these visits revealed harsh conditions as well as allegations by prisoners of inhumane treatment and torture. Such treatment, perpetrated by police, prison guards, and inmates at times resulted in deaths (see section 1.d.).

Prison personnel said that rapes of both male and female inmates, primarily by fellow inmates, continued to be a problem. There was an increasing incidence of HIV/AIDS, although statistics were difficult to obtain since there were no voluntary counseling or testing services in most prisons. Hundreds of prisoners died in prisons from infectious diseases caused by overcrowding and inadequate medical treatment. According to government statistics, 536 prisoners died in 2002, primarily as a result of pulmonary tuberculosis, gastroenteritis, pneumonia, and malaria. Dysentery, anemia, malaria, heart attack, typhoid fever, and HIV/AIDS also were common causes of death among prisoners.

Prisoners sometimes were kept in solitary confinement far longer than the maximum 90 days allowed by law. Prisoners and detainees sometimes were denied the right to contact relatives or lawyers. Family members who visited prisoners faced numerous bureaucratic and physical obstacles, each requiring a bribe.

In August 2004 the *People Daily* reported that prison officers at Thika Prison routinely released prisoners and colluded with them to commit crimes. The newspaper added that torture, illegal sales of hard drugs, and sexual abuse were routine in the prison. There were no investigations of the prison during the year.

In September 2004, 3 prison guards at Naivasha prison went on trial for helping 28 pretrial detainees accused of capital offenses escape from that prison; the escapees were later captured. The trial was ongoing at year's end.

There were no separate facilities for minors in pretrial detention. As a result, teenage detainees were routinely confined with adult detainees. On August 31, pretrial detainees in Embu prison petitioned the government to separate young boys from their adult counterparts, citing allegations of sodomy in the cells. There was no further information on the petition by year's end.

Minors were sometimes confined with adult prisoners. A February 5 media report noted that high court judges touring King'ong'o maximum security prison discovered several minors, one only 15-years-old, serving long sentences among adult prisoners. The judges ordered the prison to provide information on the minors' conviction and jailing in order to conduct a review. There was no further information on the review by year's end.

A total of 369 children under the age of four accompanied their mothers in the country's 14 prisons for women.

The Kenyan National Commission for Human Rights (KNCHR), as well as the International Committee of the Red Cross (ICRC), had the authority to inspect prison facilities on demand at any time, but the government did not permit consistent independent monitoring of prison conditions. The KNCHR conducted four visits, and the IMLU conducted six visits. There were no ICRC visits during the year. Although media coverage of prisons increased compared to last year, media members were selectively allowed visits.

d. Arbitrary Arrest or Detention.—The law prohibits arrest or detention absent a court order unless there is reasonable suspicion of a suspect having committed, or being about to commit, a criminal offense under the law; however, police occasionally arrested and detained citizens arbitrarily.

Role of the Police and Security Apparatus.—There was a large internal security apparatus that included the police's Criminal Investigation Department (CID), the National Security Intelligence Service (NSIS), the National Police, the Administration Police, and the paramilitary General Services Unit. The CID investigates criminal activity, and the NSIS collects intelligence and monitors persons considered subversive. These security forces are under the authority of the Ministry of State for Provincial Administration and National Security in the Office of the President. There was a public perception that police often were involved or complicit in criminal activity.

According to the *Kenya Bribery Index 2005*, the police service remained the most corrupt agency in the government. Although the number of extortions by police decreased dramatically from 2003 to 2004, the average bribe amount increased from approximately \$9 (657 shillings) in 2003 to \$125 (9125 shillings) in 2004.

Police, in conjunction with prosecutors, resorted to unexplained illegal confinements, extortion, torture, and highly questionable and fabricated charges as a cover-up for malpractice.

Impunity was a problem. Officers were only occasionally arrested and prosecuted for corruption or for using excessive force. Following the December 19 Kenya Anti Corruption Commission (KACC) report, nearly 200 officers were suspended pending investigation for corruption (see section 3). Authorities sometimes attributed the absence of an investigation into corruption or an unlawful killing to the failure of citizens to file official complaints. However, the required complaint form was available only at police stations, and there was considerable public skepticism of a process that assigned the investigation of police abuse to the police themselves.

During the year the government took some steps to curb abuses of authority by police. The government arrested and charged some police officers for various offenses, including corruption, although the government did not provide details on how many of these indicted police officers were tried, acquitted, convicted, or imprisoned. To reduce incentives for corruption, the government provided the police with a 115 percent increase in salaries.

Arrest and Detention.—Individuals may be apprehended on suspicion since police may make arrests without a warrant. By law, detainees must be brought before a court within 24 hours in non-capital offenses and within 14 days in capital cases; the penal code specifically excludes weekends and holidays from this 14-day period. Those who are charged may be released on bail with a bond or other assurance of the suspect's return, but many indigent pretrial detainees could not afford bail.

Although the law provides families and attorneys access to pretrial detainees, security forces rarely allowed access in practice (see section 1.c.).

The law does not stipulate the period within which the trial of a charged suspect must begin. Police from the arresting location are responsible for serving court summons and for picking up detainees from the prison each time the courts hear their cases. Police often failed to show up or lacked the means to transport the detainees, who then were forced to await the next hearing of their case.

Arbitrary arrest was a problem. Police often arrested citizens with the sole purpose of extorting bribes.

On July 21, civil society groups claimed that police arbitrarily arrested persons demonstrating against the parliament (see section 2.b.).

On September 30, police arrested two members of parliament (MPs) for violently disrupting a pro-draft law meeting on September 28. The two initially presented themselves before a magistrate and were released on bail for charges of incitement and assault in connection with the incident. Upon leaving the magistrate's office, they were re-arrested on different charges. While in custody, the MPs were moved to various police stations, and their whereabouts were unknown. On October 3, both were charged with "malicious damage of property" and released on bail. There were no further developments by year's end as the owners of the damaged property never pressed charges.

Lengthy pretrial detention continued to be a serious problem. The government reported that approximately 40 percent of the prison population consisted of pretrial detainees. The government claimed the average time spent by suspects in pretrial detention on capital charges was approximately 16 months; however, many detainees spent more than 3 years in prison before their trials were completed. Very few could afford attorneys. The government acknowledged cases in which persons were held in pretrial detention for several years. The backlog of judicial cases filled the prisons with 20,612 pretrial detainees, constituting more than 40 percent of the total prison population.

On September 8, a judge dropped charges and ordered the release from prison of Joseph Kamau Njoroge, who had been in pretrial custody for 22 years on charges of killing his 9-year-old son. However, Wanjiku Kamandere, who has served 17 years in pretrial detention, remained in custody at year's end.

Amnesty.—On December 5, the government announced the early release of 6,060 prisoners in certain categories to ease prison congestion.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, the executive branch often influenced the judiciary. According to a December 31 article in *The Standard*, the executive branch at times openly defied court orders during the year.

The president has extensive powers over appointments, including those of the attorney general, the chief justice, and appeal and high court judges. The president also can dismiss judges and the attorney general upon the recommendation of a special tribunal appointed by the president. Although judges have life tenure (except

for the very few foreign judges hired by contract), the president has extensive authority over transfers.

Reforms begun in 2003 reduced corruption in the judiciary to some extent. In March, the chief justice formed a committee to probe complaints against the judiciary. By year's end, the committee's findings were not publicized. By year's end, only one out of eight judicial corruption cases had been heard; the judge was cleared.

The government significantly reduced the use of the legal system to harass government critics; however, the attorney general on several occasions used his legal power to discontinue proceedings in private prosecution cases, including one against him. On December 15, the chief justice called for a probe into the Attorney General's Office. According to a media report, this was the fourth time he had done so during the year.

The court system consists of a court of appeals, a high court, and two levels of magistrate courts, where most criminal and civil cases originated. The chief justice is a member of both the court of appeals and the high court. All judges in the court of appeals and the high court are appointed by the president upon recommendation of the Judicial Service Commission. Magistrates are hired by the Judicial Service Commission. Criminal law trials are conducted by magistrate courts, while the high court and court of appeals hear appeals. Civil cases may be heard by any of the courts, depending on the nature of the case.

Trial Procedures.—Civilians are tried publicly, although some testimony may be given in closed session. The law provides for a presumption of innocence, and defendants have the right to attend their trial, to confront witnesses, and to present witnesses and evidence. Civilians also can appeal a verdict to the high court and ultimately to the Court of Appeals. Judges hear all cases. In treason and murder cases, the deputy registrar of the High Court can appoint three assessors to sit with the high court judge. The assessors are taken from all walks of life and receive a sitting allowance for the case. Although the assessors render verdicts, their judgments are not binding. Lawyers can object to the appointments of specific assessors.

Defendants do not have the right to government-provided legal counsel except in capital cases. For lesser charges free legal aid rarely was available, and then only in Nairobi and other major cities where some human rights organizations, notably the Federation of Women Lawyers (FIDA), assured that it was provided. As a result, poor persons may be convicted for lack of an adequate defense. Defense lawyers do not always have access to government-held evidence in advance of a trial. The government may plead the State Security Secrets Law as a basis for withholding evidence, and local officials sometimes classified documents to hide the guilt of government officials. Court fees for filing and hearing cases were high for ordinary citizens. The daily rate of at least \$28 (2,040 shillings) for arguing a civil case before a judge was beyond the reach of most citizens.

The law provides for Islamic courts that use Shari'a (Islamic law) and states that the "jurisdiction of a Kadhi's court shall extend to the determination of questions of Muslim law relating to personal status, marriage, divorce, or inheritance in proceedings in which all the parties profess the Muslim religion." There are no other traditional courts in the country. The national courts used the law of an ethnic group as a guide in civil matters as long as it did not conflict with statutory law. This occurred most often in cases that involved marriage, death, and inheritance issues and in which there was an original contract founded in traditional law. Citizens may choose between national and traditional law when they enter into marriage or other contracts; however, thereafter the courts determine which kind of law governs the enforcement of the contract. Some women's organizations sought to eliminate traditional law, arguing that it was biased in favor of men (see section 5).

Military personnel are tried by military court-martial, and verdicts may be appealed through military court channels. The chief justice appoints attorneys for military personnel on a case-by-case basis.

Political Prisoners.—There were no reports of political prisoners. On March 11, the government released from detention Charles Wanyonyi Wamoto, who was the last of the 29 persons convicted and imprisoned for plotting a coup in 1982.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, except "to promote public benefit"; however, authorities sometimes infringed on citizens' privacy rights. The Police Act permits police to enter a home forcibly if the time required to obtain a search warrant would "prejudice" the investigation. Although security officers generally obtained search warrants, they occasionally conducted searches without warrants to apprehend suspected criminals or to seize property believed stolen. The police and intelligence

service continued to professionalize, modernize, and limit actions that could qualify as interference.

In June after nearly 18 months of planning, security guards from the Narok County Council and the administration police evicted approximately 10,200 squatters living illegally on protected lands near and in the Mau Forest. There were reports that security forces raped some of the evictees (see section 1.c.). Although some evictees had title deeds, the government claimed that the deeds were issued years ago as political patronage tools, in violation of the law. The government claimed it would work on a resettlement plan which had not been implemented by year's end.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, but the government sometimes restricted these rights in practice. There were reports that security forces harassed, beat, or arrested members of the media during the year. Journalists practiced self-censorship.

The government occasionally interpreted existing laws to restrict freedom of expression. The legal prohibition of debates on issues under court consideration and a parliamentary ruling against debates on certain aspects of presidential conduct limited the scope of deliberation on a number of political issues. On April 13, security forces briefly detained MP Reuben Ndolo for singing a song in public that was interpreted as insulting to President Kibaki and First Lady Lucy Kibaki.

In general, the media remained independent. The mainstream print media included four daily newspapers that reported on national politics: *The Nation*, an independent daily that has long published articles generally critical of government policies; *The Standard*, which previously reflected KANU party views, but became more independent after the 2002 elections; *The People Daily*, owned by an opposition politician and highly critical of the government; and *The Kenya Times*, which generally reflected KANU party views. There also were numerous independent tabloid periodicals which appeared irregularly and were highly critical of the government. Reporting in these tabloids ranged from revealing insider reports to unsubstantiated rumor mongering.

The government-owned Kenya Broadcasting Corporation (KBC), the country's oldest broadcaster, was the only station with a national network of broadcast and cable television, AM and FM radio, and short-wave broadcasts. Although KBC coverage became increasingly more balanced, its monopoly on national broadcasting continued to limit the ability of opposition leaders and other critics of the government to communicate with the electorate outside the capital. Stations owned by other media companies, including 12 radio stations, operated primarily along the country's central corridor and more densely populated adjacent regions.

Kenya Television Network, owned by KANU supporters, aired news programs with more balanced political coverage than KBC, and remained the leading private television broadcaster. Stellavision, which was also owned by KANU supporters, re-broadcast SKY TV and BBC world news. Other television stations operating in Nairobi were Nation-TV, associated with the Nation Media group, and Family, a Christian-oriented broadcaster. Citizen TV and Citizen Radio broadcast pro-government news and information programs. Nation Media Group and KBC hosted Kenya's first broadcast debates in the run-up to the legal referendum. These debates were well-organized and allowed to proceed without interference or manipulation.

The international media remained free to operate; 120 international correspondents worked in the country, and approximately 100 media organizations reported out of Nairobi. On June 21, the government granted a license to Radio France International (RFI) to operate an FM radio station in Nairobi; RFI had previously operated only in Mombasa. There were three international FM broadcasters in Nairobi: RFI, Voice of America, and the BBC.

Journalists continued to be susceptible to harassment, intimidation, and arrest. On January 8, *The Standard* published a story implicating the Internal Security Minister Christopher Murungaru in questionable land deals. On January 11, Minister Murungaru ordered police to detain and question a *Standard* editor and several days later a *Standard* journalist. Following protests by several civil society organizations as well as the KNCHR, the officials released the editor within hours. On January 20, the journalist was released after his criminal libel charges were dropped.

On January 20, the police in Nyanza Province threatened a *People Daily* journalist for filing negative articles about them. On the same day, the government freed the *Kenya Confidential* editor who had been detained after a November 2004 article alleged that the head of the Kenyan Civil Service, Francis Muthaura, was involved in a government motor vehicle racket.

On April 4, a court acquitted *East African Standard* journalist David Makali on charges that he stole a police tape containing the confession of suspects in the killing of Crispin Odhiambo Mbai in 2003 (see section 1.a.).

On May 2, First Lady Lucy Kibaki forcibly entered *The Nation* media house to protest negative press coverage of her activities several days earlier. During her visit she assaulted a television journalist and damaged his camera. On May 19, although the journalist filed suit against First Lady Kibaki, the attorney general dismissed the case. The journalist filed an appeal which had not been heard by year's end. On May 17, Mrs. Kibaki filed a formal complaint against *The Nation* and *The Standard* with reference to their reports on her activities.

On September 27, police arrested a *Kenya Times* writer and editor for publishing an opinion piece that officials considered inflammatory for suggesting a coup in the country was possible and would be a desirable development. The journalists were released on bail the following day, and there was no hearing by year's end.

On November 16, the government ordered the Kalenjin language radio station KASS FM to cease broadcasting, citing complaints that the station had incited listeners to violence in connection with the November 21 referendum. On November 18, following public criticism, the government allowed KASS FM to resume operations provided it complied with regulations requiring recordings of all broadcasts and agreed to submit recordings of past programming.

There were no developments in the September 2004 ransacking of the offices of *The Weekly Citizen* and *The Independent*.

The Media Bill requires publishers to purchase a bond of \$12,800 (1 million shillings) before printing any publication and to deposit copies of their newspapers and books with a registrar within 2 weeks of publication. The law makes it a crime to sell or distribute publications not deposited or bonded, under penalty of a fine of \$256 (21 thousand shillings) or 6 months' imprisonment. Some members of the media were concerned that the government would use this law, as well as the Books and Newspapers Act and the Official Secrets Act, to stifle freedom of expression; however, the law generally was not enforced.

The regulatory framework for broadcast media continued to allow abuse and manipulation in the issuance, withholding, and revoking of broadcast permits and frequencies. Although the government revised regulations and procedures in 2004 to streamline and regularize cumbersome licensing procedures, three MPs from North Eastern Province accused the government on April 19 of denying broadcasting station frequencies to the province, thus denying the residents the same information received in other areas.

There were no developments in the 2004 court case between the government and the East African Television Network (EATN). The government continued to block EATN broadcasts.

Individual journalists practiced self-censorship due to either pressure or bribes from government officials and other influential persons to avoid reporting on issues that could harm the interests of these persons or expose their alleged wrongdoings. There also were credible reports that journalists accepted payments to report certain stories, some of which were fabricated.

There were reports of an increased use of criminal libel laws by individuals closely associated with government officials to intimidate journalists and publications. In January the KNCHR issued a statement protesting the use of libel cases against journalists.

Sedition was not grounds for censorship of publications; however, the Prohibited Publications Review Board reviewed publication bans. A number of publications remained banned, including such works as *The Quotations of Chairman Mao Zedong* and Salman Rushdie's *Satanic Verses*.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—Although the law provides for freedom of assembly, the government occasionally restricted this right in practice. Organizers must notify the local police in advance of planned public meetings, and authorities may cancel such gatherings only if there are simultaneous meetings previously scheduled for the same venue or if there are specific security threats. Authorities sometimes disrupted public demonstrations and meetings, often characterizing them as “illegal” gatherings, even when the police had been informed in advance. There were a number of incidents during which security forces used force at political rallies connected to the November 21 legal referendum.

The police occasionally used excessive force to disperse demonstrations. Some MPs and civil society organizations accused the police of harassment and arbitrary arrests during several July demonstrations against parliament's attempts to amend

the draft of a new law. Civil society groups stated that 60 persons were arrested arbitrarily, but police stated the 60 were looters.

On October 29, during a pro-draft law rally in Kisumu, 40 persons were injured and 4 died as a result of clashes between security personnel and opponents of the draft law. KNCHR concluded from its investigation that the police used excessive force: forceful entry into homes; beating of persons and children; and the use of live bullets against nonviolent individuals who had already stopped protesting.

On November 11, at a rally against the draft law in Likoni, four persons died when police disrupted the rally for being held without permission.

On November 19, rival rallies, for and against the draft law, were held in public venues within two kilometers of each other. Police did not attempt to place restrictions on either event, and they successfully managed both activities through public information, careful control of traffic flows, and deploying high numbers of personnel.

On November 27, on the grounds of national security, the government banned victory rallies of the Orange Democratic Movement (ODM), the group opposed to the new draft law. The ODM had planned to hold nationwide rallies to thank supporters for defeating the November 21 legal referendum but cancelled them due to fear that a police confrontation would lead to violence.

No action was taken against security forces that used excessive force to disperse demonstrations in 2004 or 2003. On December 10, following the October and November referendum related violence, the police commissioner reportedly directed law enforcement to exercise greater caution regarding the use of live ammunition.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. The Societies Act requires that every association be registered or exempted from registration by the Registrar of Societies. Approximately 40 political parties were registered. The only party denied registration was the Islamic Party of Kenya (IPK); however, the IPK had not resubmitted an application to register since NARC came to power in 2002.

The *Mungiki*, whom the Moi government outlawed in 2002, remained banned. In previous years the *Mungiki* espoused political views and cultural practices that were controversial in mainstream society; many of its members engaged in criminal activities and harassed and intimidated residents in areas where the group was active. The number of *Mungiki* members was unknown, but the group had a significant following among the unemployed and other marginalized segments of society. Other groups that remained banned included the *Kamjesh*, *Chinnololo*, *Sanina Youth*, *Baghdad Boys*, *Jehila Embakai*, *Jeshi la Mzee*, *Nmachuma*, and *the Taliban*.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. There was considerable tolerance among religious groups; however, some Muslims believed they were treated as second-class citizens in a predominantly Christian country. In a 2004 human rights poll only 7 percent of citizens listed freedom of worship as a problem; however, in the heavily Muslim Coast Province 31 percent deemed it a problem.

The government required religious organizations to register with the Registrar of Societies. The government allowed traditional indigenous religious organizations to register, although many chose not to do so. Religious organizations generally received equal treatment from the government; however, some small splinter groups found it difficult to register due to their inability to define their status as more than an offshoot of a larger religious organization.

According to Muslim leaders, authorities rigorously scrutinized the identification cards of persons with Muslim surnames, especially ethnic Somalis, and sometimes required additional documentation of citizenship, such as birth certificates of parents and even grandparents. The government stated that the heightened scrutiny was an attempt to deter illegal immigration rather than to discriminate against ethnic Somalis or their religious affiliation.

A long-standing debate over whether special Islamic courts should be recognized in the country's law continued to create tensions between Muslim and Christian groups. During the year leading Muslim groups opposed the new draft law since it granted widows the right to inherit land and property from their deceased husbands (see section 5).

Witchcraft was illegal, but still widely practiced. On March 25, a couple in Kakamega District was arrested for possessing traditional charms and subsequently released on bond. At year's end, they awaited trial.

On December 21, two people appeared in court for allegedly murdering in early November two family members whom they suspected of practicing witchcraft.

There were no further developments in the May 2004 case in which police arrested a Nigerian pastor, a prominent doctor, and six other members of Winners

Chapel International in the Western Province town of Kitale and charged them with torturing a church member. Local newspapers alleged that the man was tortured to force him to give up his child as a human sacrifice.

Societal Abuses and Discrimination.—There were no reports of societal violence, harassment, or discrimination against members of religious groups. The Jewish community constituted less than 1 percent of the population, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 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.

Police routinely stopped vehicles and checked vehicle safety and driver documents on roads throughout the country. Police often committed extortion at such checkpoints. Ethnic Somalis were required to provide additional identification (see section 2.c.).

Civil servants and MPs must obtain government permission for international travel, which generally was granted.

The law prohibits forced exile, and the government did not use it in practice. However, John Githongo, who resigned as the government's highest anti-corruption official (see section 3), remained in self-imposed exile outside of the country, reportedly due to fear for his safety.

Internally Displaced Persons (IDPs).—An unknown proportion of the several thousand persons displaced by ethnic clashes from the 1990s to the present have not returned to their homes due to fear of renewed violence. The government provided assistance to IDPs, and coordinated support services with NGOs, particularly the Kenya Red Cross.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a legal system for providing protection to refugees. In practice the government generally provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government also voluntarily hosted approximately 240 thousand refugees in cooperation with the UN High Commissioner for Refugees (UNHCR), and recognizes UNHCR refugee status determinations. However, during the year approximately four refugees were deported, one without verification of his refugee status. In July approximately 17 thousand Somalis fled temporarily to El Wak in the northeast, escaping an outbreak of clan violence in Gedo, Somalia; they were not granted refugee status.

The government did not accept refugees for resettlement in country. The government worked closely with the UNHCR and other humanitarian organizations in assisting refugees.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and its 1967 protocol and provided it to approximately 240 thousand persons during the year.

The government required that all refugees reside at designated UNHCR camps, most of which were located near the Somalian and Sudanese borders, unless granted permission to live elsewhere in the country. Such permission was given primarily to attend higher education institutions, undergo medical treatment, or avoid security threats at the camps.

Security at refugee camps remained a problem, particularly at the Kakuma camp where rape was among the most frequently reported crimes, some perpetrated by members of the local community. Somali bandits who crossed over the border perpetrated the majority of the rapes. Rapes also occurred when women and girls left the camps to herd goats and collect water or firewood. Security forces and police committed a small number of the rapes.

According to the UNHCR, the incidence of rape in 2 camps (sheltering 240 thousand Somali refugees) had declined from 94 in 2000 to 19 in 2004. There were five rapes and four attempted rapes reported in Kakuma. At some camps, such as Dadaab, refugees formed committees to combat such abuse with some success although women and children remained vulnerable to rape, abuse, and exploitation.

To further reduce incidences of sexual abuse in these camps, 15 relief agencies began implementing the provisions of a November 2004 document, entitled *The Kenya Code of Conduct for Humanitarian Workers in the Kenya Refugee Program*.

Acts of violence, including banditry and shootings, occurred frequently near the camps. Refugees were mistreated and abused by citizens and by residents of different refugee camps because of ethnic and religious differences. Inter-clan violence

occasionally erupted among rival Somali clans at the camps; Somali refugees who married non-Muslims or openly espoused religions other than Islam were subject to abuse.

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

The law provides citizens the right to change their government through free and fair multiparty elections, and citizens exercised this right through periodic, free, and fair elections held on basis of universal suffrage.

Elections and Political Participation.—Since independence in 1963 KANU had continuously controlled both the presidency and the national legislature. The 2002 elections were the country's third multiparty elections for presidential, parliamentary, and civic seats. Five presidential candidates contested the elections, with the main contestants being KANU candidate Uhuru Kenyatta and NARC candidate Mwai Kibaki. NARC was a coalition of more than a dozen political parties, including former members of KANU, who formed a united front to contest the December general elections. Kibaki won 61.9 percent of the vote, and international observers determined the elections were peaceful, free, and fair.

In 2002 elections 210 members of the 222-member National Assembly were elected and 12 were appointed. As in previous years two by-elections held during the year did not change the representation of the political parties in the national legislature, although observers concluded that the by-elections were marred by voter intimidation and bribery.

In March 2004 the Constitution of Kenya Review Commission completed work on drafting of a new constitution. In August parliament voted for a number of important amendments to the draft, which was submitted to the citizens on November 21 in the country's first ever nationwide referendum. Approximately 3.5 million citizens (57 percent of the population) voted against the draft constitution. There were no serious incidents of intimidation or violence.

On November 23, President Kibaki dismissed his entire cabinet, citing the need to make it more cohesive and better able to serve the citizens. On November 24, he suspended the return of parliament, noting his legal authority to do so. On December 7, the president announced a reconstituted cabinet which excluded a number of former ministers who had opposed him during the legal referendum. The parliament had not reconvened by year's end.

In June 2004 KANU and the Liberal Democratic Party (LDP) filed lawsuits alleging that the president violated the law by naming ministers without the parties' consent. During the year the LDP withdrew its lawsuit; KANU's lawsuit was pending at year's end.

There were fewer reports of criminal youth gangs. During the September through November legal referendum debate, groups of youth sometimes assembled to disrupt rallies for or against the draft law. Violence was mostly confined to stone throwing, but two rallies resulted in eight deaths. There were no arrests in the case by year's end.

In March 2004 a gang of youths attacked Cabinet Minister Raila Odinga and LDP Secretary General Joseph Kamotho in Coast Province. The two politicians accused their nominal allies within the government of hiring the youths to attack them. Although a report of the incident was made to police, there was no subsequent action taken.

In April 2004 assailants in Kisumu stoned the vehicle of Orie Rogo Manduli who was the KANU candidate in a by-election for the National Assembly.

There were 15 women in the 222-seat parliament, and 8 female ministers and assistant ministers in the new 83-member cabinet.

There were 189 members of the country's 5 largest ethnic groups in the 222-seat parliament. There were 18 minority ministers and assistant ministers in the expanded cabinet.

Government Corruption and Transparency.—Incidents of government corruption and frequent press reports fueled a widespread public perception that large-scale corruption at the highest levels of government and in parliament continued, and the problem had worsened from last year.

Throughout the year several high-ranking government officials publicly charged (without naming names) that a number of their colleagues were involved in high-level corruption. On February 7, Permanent Secretary for Governance and Ethics John Githongo (popularly known as the anti-corruption czar), abruptly resigned while on an official overseas trip. In December, President Kibaki eliminated the position of the Permanent Secretary for Ethics and Governance during restructuring of the cabinet.

The government created the KACC in 2003 and appointed a chairman and other staff in 2004. On December 15, the KACC reported that there was corruption in a police recruitment program which operated December 5–13 throughout the country. On December 16, the government cancelled all of the appointments made during the recruitment process. The police commissioner suspended approximately 100 officers for taking bribes.

In 2003 the government enacted the Anti-Corruption and Economic Crimes Act, which sets rules for transparency and accountability, and the Public Officer Ethics Act, which requires high government officials and their spouses to declare their wealth (although not publicly). On October 28, the government also enacted the Public Procurement and Disposal Act.

Despite these laws and institutions, no ministers or assistant ministers were arrested or suspended from office by year's end. On May 23, the KNCHR published a report accusing the government of lacking the will to combat corruption.

Although the law does not provide for it, access to government information, particularly through the Internet, improved during the year.

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 usually cooperative and responsive to their queries. However, there were some reports that government officials intimidated and threatened to disrupt NGO activities, and that less-established NGOs (particularly those in rural areas) were subjected to interference from provincial administrators and security forces.

Approximately 15 domestic organizations actively advocated for human rights in the country; 14 were independent of the government. Several NGOs maintained comprehensive files on human rights abuses. A number of attorneys represented the indigent and human rights advocates without compensation, although they could handle only a small percentage of those who needed assistance and were concentrated chiefly in Nairobi and other large cities. The government allowed human rights organizations to witness autopsies of persons who died in police custody. Some local human rights NGOs complained that the Attorney General's Office and other government offices sometimes were not responsive to their inquiries.

The Institute for Education in Democracy and other NGOs monitored the referendum in cooperation with the Electoral Commission and diplomatic missions.

The Kenya Human Rights Commission (KHRC), a leading human rights NGO, produced the *Quarterly Human Rights Report* that cataloged the human rights situation in the country, as well as special reports on pressing human rights problems. In April and May, several peaceful assemblies organized by the KHRC were violently disrupted in spite of the KHRC having informed the police in advance as required by the Public Order Act. Several staff members were arrested and charged with participating in unlawful assemblies. The cases were pending at year's end.

The KNCHR has the status of an appeals court and can issue summons, order the release of prisoners, and require compensation for human rights abuses. The KNCHR was able to perform its duties without overt government interference, but complained in its 2004 annual report that it had not been provided adequate funding and had difficulty obtaining information from some government offices.

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

The law prohibits discrimination on the basis of a person's "race, tribe, place of origin or residence or other local connection, political opinions, color, or creed"; however, government authorities did not enforce effectively many of these provisions. There was also evidence that some government officials at least tolerated and, in some instances, instigated ethnic violence.

Women.—Although all forms of violence against women are prohibited, domestic violence against women was a serious and widespread problem. The penal code does not specify domestic violence, but treats domestic violence as an assault. Police generally would not investigate in cases of domestic violence. The August 2004 Kenya Demographic and Health Survey revealed that more than half of women had experienced domestic violence after the age of 15 years. Wife beating was prevalent and largely condoned by much of society.

The law carries penalties of up to life imprisonment for rape, although actual sentences usually were no more than 10 years. The rate of prosecution remained low because of cultural inhibitions against publicly discussing sex, fear of retribution, disinclination of police to intervene in domestic disputes, and unavailability of doctors who otherwise might provide the necessary evidence for conviction. Moreover,

traditional culture permitted a husband to discipline his wife by physical means. There was no law specifically prohibiting spousal rape.

According to December 29 police statistics, there were 2,853 rapes nationwide during the year, compared with 2,908 reported in 2004. Available statistics under-reported the problem since social mores discouraged women from going outside their families or ethnic groups to report sexual abuse.

The law prohibits FGM; but it remained widespread, particularly in rural areas. According to the government's August 2004 Demographic and Health Survey, 32 percent of women had undergone FGM. In September 2004, an international conference on FGM in Nairobi reported that, of the country's 42 ethnic groups, only four (the Luo, Luhya, Teso, and Turkana) did not practice FGM. According to the NGO Maendeleo Ya Wanawake (Development of Women), the percentage of girls undergoing the procedure was 80 to 90 percent in some districts of Eastern, Nyanza, and Rift Valley Provinces.

FGM usually was performed at an early age. Some churches and NGOs provided shelter to girls fleeing their homes to avoid the practice, but community elders and some politicians frequently interfered with attempts to stop the practice.

In December there were a number of arrests of individuals accused of applying forced FGM. On December 23, four parents were arrested along with a man who performed the FGM. In mid-December a woman in Nyandarua District plead guilty in court for subjecting four girls to FGM. During the same month the Kuria district commissioner called for police to arrest parents who forced their daughters to undergo the procedure.

In April, 17 girls in Marakwet District fled to avoid FGM and were given shelter in Eldoret by the NGO Centre for Human Rights and Democracy. On April 20, police forcibly removed the girls from the shelter and returned them to their villages.

In July a district officer in West Pokot District attempted to stop the Pokot community from performing FGM on 70 girls, but a local politician used his influence to thwart the initiative.

On December 18, rescuers hid 140 girls in a school in Meru North District and planned to engage them in an alternative rite ceremony, while another 330 completed a "no cut" initiation rite in Marakwet District.

Various communities have instituted "no cut" initiation rites for girls as an alternative to FGM. According to The Family Planning Association of Kenya, its "no cut" program called Ntanira na Kithomo (initiate me through education) contributed to a 13 percent decline in the prevalence of FGM in Meru North District.

Prostitution is illegal but was a problem perpetuated by poverty. On May 18, Immigration Minister Linah Kilimo accompanied a police raid on a nightclub where illegal immigrants were allegedly forced to work as prostitutes. A number of the illegal immigrants were subsequently repatriated. Despite the high profile of the incident, it did not prompt specific government action against prostitution.

Sexual harassment is not prohibited by law. However, sexual harassment leading to assault may be prosecuted under the penal code. Sexual harassment in export processing zones (EPZs) was a problem (see section 6.e.).

The law provides equal rights to men and women and specifically prohibits discrimination on grounds of gender; however, women experienced a wide range of discriminatory practices, limiting their political and economic rights and relegating them to second-class citizenship. For example, the law allows only males to transmit citizenship automatically to their wives and children.

Women continued to face both legal and de facto discrimination in other areas. On March 15, the government reported that some men in the Maasai community were "hiring" wives to appear before the Land Control Board to sell family land without the knowledge of their actual wives. In July the Council of Elders in the Orma community ordered that the wives of 60 men be returned to their birth families because the husbands had defected from the political party favored by the elders.

The Law of Succession, which governs inheritance rights, provides for equal consideration of male and female children but terminates the inheritance rights of widows if they remarry. Moreover a widow cannot be the sole administrator of her husband's estate unless she has her children's consent. The law also allows the Ministry of Justice to exempt certain communities from the law in deference to tradition, which provides for equal distribution of a man's property only among his sons.

Wife inheritance, in which a man inherits the widow of his brother or other close relative, was commonly practiced in certain communities. In May the chairman of the Council of Elders in the Luo community rebuffed attempts by women's rights groups to stop the practice among the Luos, arguing that wife inheritance was a noble tradition that kept widows from falling into poverty. Although poor and uneducated women were more likely to be inherited or suffer from property and in-

heritance discrimination, prominent and educated women sometimes were victims. Following the death of Vice President Michael Wamalwa in 2003, male members of his family laid claim unsuccessfully both to his property and to his widow. Forced marriages were also common.

Women made up approximately 75 percent of the agricultural work force and were active in urban small businesses. Nonetheless the average monthly income of women was approximately two-thirds that of men, and women held only 6 percent of land titles. Under traditional law, in many ethnic groups women can not own land. Women had difficulty moving into nontraditional fields, were promoted more slowly than men, and were more likely to be laid off than men. Societal discrimination was most apparent in rural areas. Women constituted 70 percent of the country's illiterate population.

On February 17, the government created a gender office in the Ministry of Trade and Industry. There is a gender department in the Ministry of Gender, Sports, Culture, and Social Services.

Children.—The government was generally committed to the rights and welfare of children and there was legislation and developed policies to promote education and protect children's rights. The government lacked the resources to implement its policies fully.

According to the government's 2005 *Economic Survey* data, the government's Free Universal Primary Education Program, which began in 2003, raised primary school enrollment from 7.2 million in 2003 to 7.4 million in 2004. The 2003 figure constituted about 78 percent of the primary school age group. The 2004 figure represented 81.1 percent of the primary school age group. Some NGOs, however, claimed that there were still one million children not attending school. A December 21 newspaper article reported that the government fired 24 local officials for not ensuring that all children of the appropriate age were attending classes under the free primary education program.

Most citizens welcomed tuition-free education; however, the program also resulted in overcrowded classes due to insufficient teachers and an inadequate budget. To enhance access to free primary education, the government supported nonformal education schools to cater especially to children in urban slums. About 79 percent of enrolled children completed the 8-year primary school education cycle. The school drop-out rate declined from 5 percent in 1999 to 2 percent in 2004. The law mandates compulsory schooling for all children through grade 12, but fewer than half of primary school graduates went on to secondary school. During the year the gross enrollment rate for the secondary school age population was 22.2 percent. In 2004, 86 percent of secondary school students completed the four-year secondary cycle.

Although the number of boys and girls in school approximately was equal at the primary level, boys substantially outnumbered girls in higher education. Rural families were more reluctant to invest in educating girls than in educating boys, especially at the higher levels. According to FIDA, 8 thousand to 13 thousand girls drop out of school each year due to pregnancy.

Corporal punishment of students is banned but occasionally occurred in practice during the year. There was no further information on the March 2004 incident in which police in Naivasha arrested two teachers for caning several children, seriously injuring one of them.

Child rape and molestation continued to be serious problems. In March 2004 *The People Daily* reported that 38 percent of children under 18 were sexually abused. Newspapers contained frequent reports of molestation or rape of children by schoolteachers, police, clergy, and others. A July report entitled *The Defilement Index* prepared by the Chamber of Justice and the NGOs Care Kenya and Cradle indicated that incestuous defilement accounted for approximately 75 percent of abuse against young girls in urban areas. The report showed that 6 out of 10 persons working with abused children agreed that the most vulnerable girls were those in nursery to class 4 (1 to 10 years old).

Legally a man is not considered to have raped a girl under age 14 if he has sexual intercourse with her against her will; instead, he commits the lesser offense of defilement. The penalty for the felony of rape can be life imprisonment, while the penalty for defilement is usually far less. *The Defilement Index* criticized the courts for declaring inconsistent sentences to sex offenders. Since the abolition of the law on minimum sentences, sentencing is discretionary.

In September a magistrate in Tharaka District sentenced a man to 14 years for defiling a 4-year-old girl, calling the sentence a deterrent against such attacks. According to a September 14 media report, a man was sentenced to seven years for raping a seven-year-old girl and infecting her with HIV in April 2004.

On December 15, a man was sentenced to seven years with hard labor for raping a mentally handicapped young girl.

Certain ethnic groups commonly practiced FGM on young girls, particularly in rural areas (see section 5, Women).

Newspapers frequently highlighted the problem of child marriages. There were no reliable statistics on the extent of child marriage, but public perception indicated that it was very common and traditional practice among certain ethnic groups. The Marriage Act forbids marriage under the age of 16, but the Mohammedan Marriage and Divorce Act allows Muslim girls to marry at puberty.

On July 21, a man was sentenced to 18 months in prison for consenting to the marriage of his 9-year-old daughter to a 45-year-old man.

On December 21, the Trans Mara district commissioner (DC) disallowed the marriage of four minor girls, who were also saved from forced FGM. The girls told the DC that they were not ready for marriage. The DC reportedly stated that he would not condone early marriage.

Trafficking in children was a problem, as was child prostitution. Child prostitution has grown considerably due both to economic contraction and to the increase in the number of children orphaned because of the spread of HIV/AIDS (see Section 5, Trafficking). According to the International Labor Organization (ILO), approximately 30 thousand girls under the age of 19 years were engaged in prostitution in the country.

Approximately 1.9 million children were still engaged in child labor (see section 6.d.).

Economic displacement and the spread of HIV/AIDS continued to affect the problem of homeless street children. In 2002 the *East African Standard* reported an estimated 250 thousand children living on the streets in urban areas (primarily Nairobi, Mombasa, Kisumu, and Nakuru); this figure was a conservative estimate. These children often were involved in theft, drug trafficking, assault, trespassing, and property damage. Street children faced harassment as well as physical and sexual abuse from police and within the juvenile justice system.

The government provided programs to place street children in shelters and assisted NGOs in providing education, skills training, counseling, legal advice, and shelter for girls abused by their employers. In 2003 the government provided an employment program for orphans and abandoned youth that included training and subsidized employment, but its effectiveness was limited. By November 231 of 300 street children in the National Youth Service had graduated from vocational courses.

Trafficking in Persons.—The law does not explicitly prohibit trafficking in persons, and there were reports that persons were trafficked to, from, and within the country. Internal trafficking was also a problem. Various laws can be used to prosecute trafficking-related offenses. The penal code prohibits detaining females against their will for the purposes of prostitution as well as child labor, the transportation of children for sale, and the commercial sexual exploitation of children. Fines are limited and jail time was rarely enforced.

The Anti-Human Trafficking Unit of the Police Service (KPS) has primary responsibility for combating trafficking. The Criminal Intelligence Unit of the KPS, the Ministry of Labor, and the Ministry of Home Affairs are also involved in curbing human trafficking.

Victims were trafficked from South and East Asian countries and the Middle East and transited in the country to European destinations for sexual exploitation. Asian nationals, principally Indians, Bangladeshis, and Nepalese, were trafficked into the country and coerced into bonded labor in the construction and garment industries.

In August 2004 the police charged several persons with participating in an international child trafficking ring involving the abduction and foreign sale of infants and young children. In July the accused faced additional charges related to child theft and were awaiting trial at year's end.

Government assistance to NGOs to combat human trafficking was minimal due to resource constraints.

Persons with Disabilities.—The Persons With Disabilities Act prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced its provisions during the year. The government continued its efforts, begun in 2004, to equip public buildings with wheelchair ramps, lifts, and sanitary facilities.

National/Racial/Ethnic Minorities.—The country's population was divided into more than 40 ethnic groups, among which there were frequent allegations of discrimination and occasional violence. Unofficial results of the 1999 census indicated that the Kikuyu constituted 21 percent of the population, the Luhya 16 percent, the Kalenjin 12 percent, the Luo 11 percent, and the Kamba 10 percent of the popu-

lation. The Kikuyu and the closely related Kamba, Meru, and Embu groups made up more than one-third of the country's population; members of these groups dominated much of private commerce and industry.

In private business and in the public sector, members of virtually all ethnic groups commonly discriminated in favor of other members of the same group. Neighborhoods in large cities tended to be segregated ethnically, although inter-ethnic marriage has become fairly common in urban areas. Political disputes tended to correlate with ethnic differences.

Clashes also broke out between various ethnic groups and clans. In January approximately 30 persons died in fighting between the Kikuyu and the Maasai in Maai Mahiu. The fighting was sparked when Maasai warriors destroyed a pipe diverting water from a river to a Kikuyu farm due to fear that this diversion would dry up their pastoral grazing grounds.

In January there were renewed clashes in Trans-Nzoia, Rift Valley Province, over land disputes between the Pokot and non-Pokots.

On July 12, a group of Borana men attacked a Gabra village near Marsabit and killed approximately 80 persons over accusations of cattle rustling. Over the next 48 hours revenge attacks and counter attacks raised the death toll to nearly 100 in the area. Four local MPs, one Gabra, and three Borana accused each other of inciting the violence.

Many factors contributed to interethnic conflicts, including the proliferation of guns, the commercialization of traditional cattle rustling, the development of a modern warrior/bandit culture (distinct from the traditional culture), irresponsible local political leadership, shrinking economic prospects for affected groups, a regional drought, and the inability or unwillingness of security forces to stem the violence.

Members of the Nubian community, most of whom were Muslim, claimed that the government discriminated against them by trying to eliminate their ethnic identity. They also claimed that despite living in the country for generations, they were frequently denied identity cards, work permits, passports, and the right to own land because they could not prove that their grandparents or great-grandparents were citizens. They claimed these measures hampered their access to education and employment opportunities, resulting in the impoverishment of their community, which numbered approximately 200 thousand. In June 2004 the Nubian Community petitioned the high court for redress of grievances related to their rights as citizens; the high court did not render judgment by year's end.

Other Societal Abuses and Discrimination.—There was societal discrimination against homosexuals and persons with HIV/AIDS. A lingering stigma toward persons with HIV/AIDS made it difficult for many families to admit that their members were HIV positive. The government worked in cooperation with international donors on programs of HIV/AIDS prevention and treatment.

Section 6. Worker Rights

a. The Right of Association.—The law provides that all workers, even those in the EPZs, are free to join unions of their choice, and workers exercised this right in practice. The Police Act prohibits members of the national police force from joining unions. Some unions complained that government labor officials hindered efforts to establish unions in factories where at least 80 percent of workers indicated a desire for union membership and representation. The unions alleged that the officials refused to approve applications by continually finding minor technicalities in the applications.

There were 42 unions representing approximately 600 thousand workers, approximately one-third of the country's formal-sector work force. All but 5 of these unions, representing approximately 300 thousand workers, were affiliated with the 1 approved national federation—the Central Organization of Trade Unions (COTU). The two largest non-COTU unions were the 240 thousand member Kenya National Union of Teachers and the Union of Kenya Civil Servants, with 70,588 registered members.

The law prohibits employers from intimidating workers; however, some antiunion discrimination still existed, specifically in the EPZs in Mombasa. Employees wrongfully dismissed for union activities were able to take their cases to the industrial court, a body of up to five judges appointed by the president, and many were awarded damages in the form of back pay. Reinstatement was not a common remedy; more often aggrieved workers found alternative employment in the lengthy period prior to the hearing of their cases. The government voiced its support for union freedom but did not protect it fully.

b. The Right to Organize and Bargain Collectively.—While not having the force of law, the Industrial Relations Charter, executed by the government, COTU, and the Federation of Kenya Employers, gives workers the right to engage in legitimate

trade union organizational activities, and the government protected these rights in practice. Both the Trade Disputes Act and the charter authorize collective bargaining between unions and employers, and wages and conditions of employment were established in negotiations between unions and management. The government permits wage increases of up to 100 percent and renegotiation of collective agreements; however, the law allows employers in ailing industries to dismiss workers regardless of the provisions of their collective bargaining agreements. Collective bargaining agreements must be registered with the industrial court to ensure adherence to these guidelines.

The law, with some restrictions, permits workers to strike, and workers exercised this right in practice. Workers must submit a letter to the Ministry of Labor and wait 21 days before a strike can occur. Members of the military services, police, prison guards, and the National Youth Service are prohibited from striking. Other civil servants can strike following the 21-day notice period (28 days for essential workers, such as water, health, education, or air traffic control). During this interim period, the minister may mediate the dispute, nominate an arbitrator, or refer the matter to the industrial court for binding arbitration. Once a dispute is referred to mediation, fact-finding, or arbitration, any subsequent strike is illegal.

In reaction to a civil servants strike on June 2, the Directorate of Personnel Management and the Department of the Registrar-General exercised an option under the union's law and ordered it to hold a special election to replace the national chairman and three of his officials because they retired before completing their five-year terms. In addition the government refused to release union dues collected from members in May until after the special election. The union claimed the government did not follow regulations in firing many of the strikers. The union held the special election in November and the government, in the run-up to the November 21 referendum, announced it would reinstate all the fired civil servants. The reinstatements were made by year's end.

With the exception of the Factories Act, all labor laws apply in the EPZs (see section 6.e.); however, the EPZ Authority and the government granted many exemptions to applicable laws. For example the government waived a provision of the law that prevents women from working in industrial activities at night. There were reports that persons lost their jobs in EPZs because of their refusal to work on Saturdays. Union leaders claimed that a number of textile and garment firms in EPZs employing about three thousand workers have refused to sign collective bargaining agreements.

c. Prohibition of Forced or Compulsory Labor.—The law proscribes slavery, servitude, and forced and bonded labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.). Under the Chiefs' Authority Act a local authority can require persons to perform community services in an emergency; there was no attempt to use the law during the year.

d. Prohibition of Child Labor and Minimum Age for Employment.—The employment in industry of children under the age of 16 is illegal, but the law does not apply to the agricultural sector, where approximately 70 percent of the labor force was employed, or to children serving as apprentices under the terms of the Industrial Training Act. Child labor was a problem, particularly in the informal sector. The Children's Act of 2001 prohibits all forms of child labor that are exploitative, hazardous, or would prevent children under age 16 from attending school.

The Ministry of Labor and Human Resources Development officers nominally enforced the minimum age statute, and the government worked closely with COTU and the ILO's International Program for the Elimination of Child Labor to eliminate child labor. The government's Free Universal Primary Education Program resulted in the return to school in 2003 of approximately one million children who formerly were working; more than one million children were believed still to be working.

Children often worked as domestic servants in private homes, and during the year there were reports of abuse of children serving as domestic employees. Children worked primarily in the informal sector, mostly in family businesses and usually assisted parents on family plots. A significant number of children worked in family units on tea, coffee, sugar, and rice plantations. Deteriorating economic conditions and the effects of the HIV/AIDS pandemic gave rise to more child labor in the informal sector, which was difficult to monitor and control. In addition a large number of underage children were active in the sex industry (see section 5). In view of the high levels of adult unemployment and underemployment, the employment of children in the formal industrial wage sector in violation of the Employment Act was less common.

The law establishes definitions of child labor, and in June 2004 the government prepared a National Plan of Action to Eliminate the Worst Forms of Child Labor;

it was not implemented by year's end. A practical guide to labor inspection was developed, and the government trained labor inspectors and occupational health and safety officers to report on child labor.

Many NGOs also were active in child labor issues and assisted in the return to school of child laborers. Unlike in previous years there were no reports that children, especially in the rural areas, were loaned out as workers to pay off family debts.

For several years the government has implemented 73 action programs on the elimination of child labor with 25 partner agencies. These programs removed 50 thousand children, half of them girls, from child labor. The partners placed the children in schools, vocational training institutions and apprenticeships, and supported income generating activities for 10 thousand parents. Partners also provided support to schools to initiate income generating activities to help keep children from poor families in school. In 2003 The Federation of Kenyan Employers distributed an employers' code of conduct on child labor issues and guidelines on combating child labor in the agricultural sector.

e. Acceptable Conditions of Work.—The legal minimum wage for blue-collar workers in the wage sector has 12 separate scales, varying by location, age, and skill level; in many industries, the minimum wage equaled the maximum wage. On May 1, the government increased the minimum wage for workers in both urban and rural areas: the lowest minimum wage in large urban areas was approximately \$60 (4,638 shillings) per month and approximately \$55 (4,279 shillings) per month in rural areas. The minimum wage did not provide a decent standard of living for a worker and family. Most workers relied on second jobs, subsistence farming, informal sector opportunities, or the extended family for additional support.

Workers covered by a collective bargaining agreement generally received a better wage and benefit package than other workers. For instance the average covered worker received \$100 (8,170 shillings) per month in addition to a housing and transport allowance, which often constituted 25 to 50 percent of a worker's compensation package.

The law limits the normal workweek to 52 hours, although nighttime employees may be employed for up to 60 hours per week. Some categories of workers had a shorter workweek. As is the case with respect to minimum wage limitations, the law specifically excludes agricultural workers. An employee in the nonagricultural sector is entitled to one rest day per week and there are provisions for 21 days of annual leave and sick leave. The law also provides that the total hours worked (regular time plus overtime) in any two-week period not exceed 120 hours (144 hours for night workers). The Ministry of Labor and Human Resources Development was responsible for enforcing these regulations; however, violations were reported during the year. Workers in some enterprises, especially in the EPZs, claimed that employers forced them to work extra hours without overtime pay to meet targets. In addition, the employers did not provide nighttime transport.

The law sets forth detailed environmental, health, and safety standards, but the law was not always followed in practice. Fines generally were too low to serve as a deterrent to unsafe practices. EPZs are excluded from these legal provisions (see section 6.b.). The Ministry of Labor's Directorate of Occupational Health and Safety Services (DOHSS) has the authority to inspect factories and work sites, but lacked statutory authority to inspect factories in the EPZs. Labor unions and NGOs continued to criticize health and safety conditions in the EPZs and around the country. The unions highlighted problems of sexual harassment in the EPZs. In March 2004 the Tailors and Textile Workers Union filed a complaint with the Ministry of Labor on behalf of 15 women from the EPZs who reportedly were fired because they were pregnant, but in July 2004 the factory closed down and no action was taken against the employers.

DOHSS health and safety inspectors may issue notices against employers for practices or activities that involved a risk of serious personal injury. Such notices can be appealed to the factories appeals court, a body of four members, one of whom must be a high court judge. The law stipulates that factories employing at least 20 persons have a health and safety committee with representation from workers; however, according to the government, fewer than half of the very largest factories had instituted health and safety committees. Workers can refuse to remain in hazardous conditions, but many were reluctant to risk losing their jobs because of the high unemployment level.

LESOTHO

Lesotho is a constitutional monarchy with a population of approximately two million. Under the constitution, the king is head of state, fills a ceremonial role, has no executive authority, and does not actively take part in political initiatives. In 2002 Prime Minister Pakalitha Mosisili, the leader of the Lesotho Congress for Democracy (LCD) party, won re-election, and the LCD won 79 of 80 constituency-based seats. The country held local government elections on April 30. Observers, including the Commonwealth, various resident diplomatic missions, and local NGOs judged the elections to be free, fair, and without violence. While civilian authorities generally maintained effective control of security forces, some members of the security forces committed human rights abuses.

The government generally respected the human rights of its citizens; however, the following human rights problems were reported:

- allegations of torture by security forces
- excessive force against detainees
- impunity
- poor prison conditions
- lengthy pretrial detention and long delays in trials
- regular occurrence of domestic violence
- severe restrictions on women's rights
- societal discrimination against persons with disabilities and HIV/AIDS
- child labor in the agriculture and informal sectors

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 that the government or its agents committed arbitrary or unlawful killings. There were two deaths in custody reported during the year (see section 1.c.).

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law expressly prohibits such practices; however, there were allegations that security forces tortured persons and credible reports that the police at times used excessive force. According to the Human Rights Unit at the Ministry of Justice and Human Rights, there were 17 cases of human rights abuses by the police filed from January to December. Dates were set to hear the cases in 2006.

On July 13, the Lesotho News Agency (LENA) reported that farmers and residents killed a police officer in the Sehlabathebe district, while the officer was trying to protect a suspect accused of livestock theft. According to the LENA report, the police officers rounded up several suspects from the village and physically abused them. The Ministry of Home Affairs referred this case to the Police Complaints Authority (PCA), and in December the PCA submitted their report to the Minister of Home Affairs (who has authority over the police). No further action had been taken by year's end.

The July 22 edition of *Public Eye* reported police allegedly physically abused three men in the town of Roma after their arrest on suspicion of stealing property. Although the three men did not lodge a complaint, a relative reported the matter to the PCA. The Roma police denied the assault, and the PCA did not conduct an investigation since there was no complaint.

The Lesotho Mounted Police Service (LMPS) Complaints and Discipline Section revealed that it received 11 complaints of physical abuse and negligence of duty by the police from January to December. Two of the claims were later declared false; while the remaining nine cases were under investigation at year's end.

In 2003 Theko Lerotholi, a Lesotho Defense Force (LDF) member arrested for suspicion of armed robbery, lodged a torture claim against the LMPS with the High Court. The case remained pending in the High Court at year's end. There were a number of civil claims against the police for unlawful detention and assault stemming from the 2003 incident.

Prison and Detention Center Conditions.—Prison conditions were poor, and facilities were overcrowded and in disrepair. Women, men, and juveniles were housed separately. After inspecting 51 prisons, the Office of the Ombudsman, an independent statutory body, released an August report that criticized conditions of overcrowding, lack of bedding, poor sanitation, and poor nutrition. The report also in-

cluded recommendations for extensive physical improvements to facilities, more frequent inspections, and separate areas within prisons for ill inmates. There was no government action on these recommendations.

In December 2004 a 44-year-old man accused of the murder of an LDF senior officer died in police custody while awaiting judgment in his murder trial. Further investigation revealed the prisoner may have died due to illness related to prison conditions.

The Office of the Ombudsman prison report identified the death of two inmates in Mohale's Hoek prison in 2004. The prisoners were held in solitary confinement, stripped, soaked with cold water, and beaten. One prisoner died from swallowing nails, and the other reportedly suffocated himself with handcuffs. The authorities had not responded or taken any action by year's end.

Pretrial detainees were held with convicted prisoners. Security and military prisoners were held in a separate facility. The law states pretrial detainees and convicted prisoners should be held in separate prisons; however, due to overcrowding this did not occur in practice.

Prison regulations provide for visiting committees made up of principal chiefs, church ministers, representatives of the business community, advocates of the High Court, and other citizens. These committees may visit any prison without the prior knowledge of the prison director and generally were allowed to do so. The committees report their findings to the prison director.

International human rights groups were permitted to monitor prison conditions. During the year International Committee of the Red Cross representatives inspected prisons in Maseru on a number of occasions. Their report criticized the conditions; however, there was no government response or action by year's end. The British Department for International Development program, Justice Development Sector, worked in prisons and conducted regular inspections.

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

Role of the Police and Security Apparatus.—The security forces consist of the LDF, the LMPS, and the National Security Service (NSS). The prime minister is the Minister of Defense and National Security, with direct authority over the LDF and the NSS. The police force is under the authority of the Minister of Home Affairs and Public Safety.

The LMPS is nationally managed, with the country divided into three regional police districts. An assistant commissioner of police heads each region and senior superintendents head the districts. The LMPS suffered from a significant shortage of resources, which sometimes limited the effectiveness of the police.

Corruption was a problem; however, the government continued its reform efforts. Police authorities confirmed allegations that some police officers solicited bribes to turn a blind eye to traffic and other offenses. Police authorities and media reported that police and army personnel may have been involved in a spate of armed robberies during the year. A police officer was arrested, charged, and bail was set, but due to the absence of legal representation, the date of trial was postponed to January 2006.

The PCA, established in 2003, became fully operational. The PCA is an independent oversight body that monitors questionable behavior of police officers and addresses grievances of the public against the police. The PCA is composed of 4 commissioners and 36 staff members. The PCA commissioners expressed concern that the Police Act limited the PCA, since it did not accord the body powers of search and seizure or the power to summon police officers. They requested the Ministry of Home Affairs and Public Safety to pursue amendments to the act; no amendments occurred by year's end.

During the year the PCA received 48 complaints. In December the PCA submitted its report containing recommendations of disciplinary action to the Minister of Home Affairs and Public Safety (which has authority over the police). No further action had been taken by year's end.

Arrest and Detention.—The law requires police to obtain a warrant prior to making an arrest. Suspects must be informed of charges within 48 hours, and their families must be notified of the imprisonment. The law also allows family members to visit inmates. However, in practice, the police sometimes did not comply with these provisions. There were no reports of police misconduct in arrests or pretrial detention. Persons detained or arrested in criminal cases and defendants in civil cases had the right to legal counsel; however, there was no system to provide public defenders. The Legal Aid Division, under the Ministry of Justice and Human Rights, offered free legal assistance, but a severe lack of resources hampered the division's ability to be effective. Some nongovernmental organizations (NGOs) maintained a

few legal aid clinics. The law provides for granting bail, which the authorities granted regularly and generally fairly.

There were no reports of political detainees.

Due to serious backlogs of court caseloads, pretrial detainees constituted approximately 17 percent of the prison population, and pretrial detention could last months or even years. The backlogs were due to lack of resources, delay tactics by defense counsel, and unavailability of legal counsels. On November 1, *The Mirror* newspaper reported that judges granted postponement of cases without good cause and attorneys failed to appear without explanation. The article also reported that six thousand cases were pending in the magistrates' courts.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the judiciary was independent in practice.

The judiciary consists of the Court of Appeal (which meets semi-annually), the High Court, magistrates' courts, and traditional courts, which exist largely in rural areas to administer customary law. The High Court also provides procedural and substantive guidance on matters of law and procedure to military tribunals; however, it does not participate in judgments. A single high court judge normally adjudicates criminal trials with two assessors who serve in an advisory capacity. The authorities generally respected court decisions and rulings.

Trial Procedures.—There is no trial by jury. Trials are public, but in civil cases, judges normally hear cases alone. There was a large case backlog, which led to lengthy delays in trials (see section 1.d.). Defendants have the right to legal counsel; however, government sources stated that in the magistrates' courts, some accused persons were not advised of their right to legal representation, and some cases proceeded without legal representation for the accused. Free legal counsel is available, either by the state or by a legal NGO. The defendant can be held or released on bail until a sentence is passed.

In civil and criminal courts women and men are accorded equal rights. However, in traditional and customary courts, certain rights and privileges were denied to women. This system greatly disadvantaged women (see section 5). When traditional law and custom were invoked in a court case, a male plaintiff could opt for customary judgments by a principal chief rather than a civil court, and the judgment was legally binding.

Military tribunals have jurisdiction over military cases only. Decisions by military tribunals can be appealed only to a special court-martial appeal court, which is composed of two judges from the High Court—one retired military officer with a legal background and the registrar of the High Court.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law does not fully protect citizens' privacy rights; however, there were no reports that authorities infringed on citizens' privacy rights during the year. Although search warrants were required under normal circumstances, the law provides police with wide powers to stop and search persons and vehicles and to enter homes and other places without a warrant.

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 independent newspapers routinely criticized the government. There were seven private radio stations, and there were no private television stations. The media was free to criticize the government, but risked being sued for slander or libel. The official state-owned or state-controlled media consisted of one radio station, a two and one-half hour daily newscast on a television channel, and two weekly newspapers. All reflected official positions of the ruling party. South African, global satellite television, and radio broadcasts were widely available.

Government ministers and other officials initiated a number of libel and defamation suits against members of the independent media, some of which led to out-of-court settlements. In June lawyers representing the prime minister met with representatives of *Mopheme* newspaper to discuss a possible libel case. An agreement was presumably reached as no further reports were made. On November 8, the *Spectator* newspaper reported that retired Major General Thibeli filed a defamation suit against the Catholic newspaper *Moeletsi oa Basotho*. The plaintiff and defendants met in court, but due to the absence of legal representation, the case was postponed to 2006.

On November 10, Mr. Thotanyane, a private businessman, received an award of \$240 thousand (1.5 million maloti) from his libel case against the *Public Eye* newspaper.

The 2004 case in which a member of parliament sued the *Mololi* newspaper for libel was still pending at year's end.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. Unlike in previous years, there were no reports that police killed demonstrators.

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

Societal Abuses and Discrimination.—There were no reports of societal violence, harassment, or discrimination against members of religious groups. There was a very small Jewish community and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

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

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system to provide protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government continued to cooperate with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The government has designated a commissioner for refugees.

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.

Elections and Political Participation.—In the 2002 elections, the LCD party won 79 of the 80 constituency-based seats; the opposition Lesotho People's Congress (LPC) party won the remaining constituency seat; and the 40 proportionally elected seats were divided among 9 opposition parties. Prime Minister Mosisili, the leader of the LCD party, won re-election. Domestic and international observers concluded that the elections were free, fair, and peaceful.

There were 15 women in the 120-member National Assembly and 12 women in the 33-member Senate. The speaker of the National Assembly, five government ministers, one assistant minister, four judges of the High Court, and the commissioner of police were women. In April female candidates captured 53 percent of seats in the first post-independence local government elections.

Approximately 98.5 percent of the population was Basotho. There were no minorities in the 120-member National Assembly, the Senate, or the cabinet.

A provision in the constitution requires that members of parliament be able to speak; however, to date, this provision has not been enforced.

Government Corruption and Transparency.—There were isolated reports of government corruption during the year; however, according to Transparency International, corruption was a serious problem.

In January two officials, who arranged travel for the LDF, were charged with accepting bribes from Millennium Travel and Tours. The first official was fined \$780 (5 thousand maloti) with an alternative of a two-year jail term. The trial of the second official began in November and was pending at year's end.

In a February case brought before the High Court, the Impregilo Company was charged with bribery of a former chief executive of the Lesotho Highlands Water Project (LHWP). The chief executive was already serving a 16-year sentence for another LHWP-connected bribe.

Although there are no laws providing for access to government information, and access to government information was incomplete, websites of government ministries, parastatals, and private organizations provided significant information. On October 31, media reported that the Media Institute of Southern Africa pressured the government to release information on an upcoming Commonwealth of Nations conference. The government said it was holding the information for initial release to government-controlled media.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

An independent Office of the Ombudsman exists to protect citizens against infringement of their rights by public and private sector agencies. The ombudsman was constrained by a shortage of staff, finances, and equipment. The ombudsman intervened on issues such as the release of unlawfully held salaries of employees; reinstatement of employees illegally suspended from work; compensation for persons relocated to new areas in connection with the LHWP; and compensation and repair of houses for communities living close to large-scale development projects. Some of the ombudsman's reports were successful at bringing attention to various issues. In the case of the LHWP, action was taken to correct infringements highlighted by the reports. The government was slow to implement recommendations addressing inadequacies in government infrastructure due to a lack of resources.

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

The law prohibits discrimination based on race, color, sex, language, political or other opinion, national or social origin, birth, or other status; however, the constitution also recognizes customary law as a parallel legal system, and women's inheritance and property rights were severely restricted under this system.

Women.—Although dependable statistics were not available, domestic violence against women occurred frequently and was believed to be widespread. Traditionally, a wife may return to her "maiden home" if physically abused by her husband. Under common law, wife beating is a criminal offense and defined as assault; however, few domestic violence cases were brought to trial. Punishment ranges from fines to incarceration. Judges have a wide degree of discretion in sentencing. Such behavior was increasingly considered socially unacceptable due to advocacy and awareness programs of the Gender and Child Protection Unit (GCPU) of the LMPS, the Federation of Women Lawyers, NGOs, the Lesotho Child Counseling Unit, and both broadcast and print media campaigns.

The law prohibits rape, including spousal rape, which is punishable by a minimum sentence of five years' imprisonment, with no option for a fine. The rape of young children, older girls, and women was common. The organizations involved in combating the problem included the GCPU, the Lesotho Child Counseling Unit, and other NGOs.

The law does not address prostitution, and it was a problem. In August police conducted a large raid in Maseru, but were unable to prosecute those apprehended based on existing law.

The law does not specifically prohibit sexual harassment, and there is a strong perception of widespread sexual harassment.

Both traditional law and custom severely limited the rights of women in areas such as property rights, inheritance, and contracts. Women have the legal and customary right to make a will and sue for divorce; however, under customary law, a married woman is considered a minor during the lifetime of her husband, and she cannot enter into legally binding contracts without her husband's consent. A woman married under customary law has no standing in civil court. Government officials have publicly criticized this customary practice. The tradition of paying a bride price (*lobola*) was common. There is no evidence that *lobola* contributed to abuses against women's rights. *Lobola*, if not paid to the bride's family, allows the family the right to end a marriage and the right to challenge custody of any offspring. Polygyny was practiced by a very small percentage of the population.

Women's rights organizations took a leading role in educating women about their rights under customary and common law, highlighting the importance of women participating in the democratic process. The Ministry of Gender, Youth, Sports, and Recreation funded efforts by women's groups to sensitize society to the status and rights of women.

Children.—The Child Protection Act (CPA) and the Sexual Offences Act provide for the protection of children; however, limited resources hampered the government's ability to fully enforce these laws.

The government devoted substantial resources to primary and secondary education. Primary education was tuition-free through the sixth year of school, with the seventh year to be included in 2006. Education was not compulsory even at the primary levels. A substantial number of children did not attend school, particularly in rural areas where there were few schools, where children were involved in subsist-

ence activities in support of their family's welfare, or where families could not afford fees for the purchase of uniforms, books, and materials. The UN Children's Fund (UNICEF) estimated in 2002 that 62 percent of boys and 68 percent of girls attended primary school. School nonattendance affected boys disproportionately more than girls, due to the tradition of livestock herding by young boys (see section 6.d.).

Boys and girls had equal access to government-provided health care.

Child abuse was a common problem, especially for children made vulnerable by HIV/AIDS. There were few official reports or statistics. During the year the Ministry of Youth, Gender, and Sports stated on a number of occasions that there was a need to curtail and stop child abuse.

Child prostitution was a problem. According to media reports, young girls and boys, many of whom were orphans, moved to urban areas to work as prostitutes. A 2001 UNICEF assessment concluded that child prostitution in the country was a poverty-driven phenomenon rather than a commercial enterprise and that the financial arrangements were casual and not the product of organized criminal syndicates. However, UNICEF and the government agreed that while the numbers remained small, the trend toward commercial prostitution by children under age 18 was a growing problem in the country. It was believed that the incidence of prostitution was growing, and the average age of commercial sex workers was dropping; however, there was no evidence of third party participation. Child sex workers (including child prostitutes) worked by themselves for economic reasons. There is little capability within either the police force or the Department of Social Welfare to address the needs of children likely to engage in prostitution.

Familial stress, poverty, the spread of HIV/AIDS, and divorce led to a rise in child homelessness and abandonment, creating a growing number of street children and families headed by children. Street children were constrained due to their relative lack of finances from access to government services, such as medical care and school. Street children were not informed about their rights or access to government services. There were no reports of abuse of street children by security forces.

The GCPU within the LMPS had branches in all 10 districts, but lack of resources restricted its ability to be effective. The GCPU dealt with sexual and physical abuse, neglected and abandoned children, and protection of property rights for orphaned children.

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons. During the year the minister of Gender and the assistant minister of Education publicly stated their concern about six cases of child trafficking and the possible increase of trafficking-related activities. There were no official statistics available on the issue of trafficking. The police can charge persons suspected of trafficking under the Labor code, the CPA, and kidnapping statutes enshrined in the constitution. The Ministry of Home Affairs and the GCPU are responsible for monitoring trafficking.

Persons with Disabilities.—Discrimination against persons with physical disabilities in employment, education, or provision of other government services is unlawful, and the government enforced these laws within its limited means. Although societal discrimination was common, the tradition of hiding disabled children from the public was no longer commonly acceptable. The association of the disabled actively promoted the rights and needs of the disabled. However, during the year the association was hampered by accusations of misallocation of finances.

Laws and regulations stipulate that persons with disabilities have access to public buildings, and buildings completed after 1995 generally complied with the law. The election law provides assisted voting for persons with disabilities. The minister of justice, human rights, rehabilitation, law, and constitutional affairs was blind.

National/Racial/Ethnic Minorities.—Minorities constituted less than 2 percent of the population. There were small groups of Indo-Basotho, European, and Sino-Basotho. Economic and racial tension between the Chinese business community and the Basotho remained a problem.

Other Societal Abuses and Discrimination.—There continued to be reports that children orphaned by AIDS, persons with AIDS, and their immediate families were ostracized. In March 2004 the prime minister took an HIV/AIDS test and started an HIV/AIDS awareness campaign. The government provided subsidized medicine and food to persons with HIV/AIDS.

The November 28 edition of *Mopheme* reported a claim of discrimination by the LDF policy to disallow enlistment of HIV positive persons. The LDF policy also states that a soldier found to be HIV positive after induction is not retired or separated. The soldier is provided counseling and testing; duties are adapted as appropriate.

Section 6. Worker Rights

a. The Right of Association.—Under the law, workers have the right to join and form trade unions without prior government authorization, and workers exercised this right in practice; however, some employers in the textile sector do not observe trade union freedoms. The labor code prohibits civil servants from joining or forming unions, but allows them to form staff associations. The government regarded all civil servants as essential employees; therefore, essential employees did not have many of the normal labor rights, such as the right to strike or the right to negotiate. In May 2004 civil servants established a professional association.

The Mounted Police Service Act prevents members of the police service from belonging to trade unions; however, it allows them to establish a staff association charged with promoting the professional efficiency and interest of members of the service.

Under the labor code, prepared with the assistance of the International Labor Organization, all trade union federations must register with the government. The government routinely granted registration. During the year, the Department of Labor stated there were 38 functional trade unions with a membership of 20,706, excluding 3 unions, which did not have proper records of membership.

A majority of Basotho mineworkers were members of the South African National Union of Mineworkers (NUM). While the NUM, as a foreign organization, was not allowed to engage in union activities in the country, it provided training, constructed agricultural projects, and performed other social services for retrenched mine workers and families of deceased miners.

The law prohibits antiunion discrimination, and the government generally enforced this in practice. There were reports that some employers harassed union organizers, intimidated members, and fired union activists, particularly in domestic industries. During the year unions referred 28 cases of unfair labor practice to the independent Directorate of Dispute Prevention and Resolution (DDPR). 13 cases were brought to agreement, 2 of which were referred to the labor court for settlement. 1 was withdrawn and 16 were ongoing at year's end. The commissioner of labor, who operated as part of the Ministry of Employment and Labor, was charged with investigating allegations of labor law violations. During the year, there were no reports of employers preventing workers from becoming members of unions, gaining access to factories, or threatening workers with loss of employment.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government generally protected them in practice; however, some private sector employers tried to restrict these rights (see section 6.a.). Collective bargaining was protected by law and freely practiced.

The law provides for a limited right to strike; however, civil servants were not allowed to strike, and, by definition, all public sector industrial actions were unauthorized. In the private sector, the labor code requires an escalating series of procedures to be followed by workers and employers before strike action is authorized. During the year there were no legal or illegal strikes. The labor code establishes the DDPR within the Ministry of Employment and Labor to provide dispute prevention and resolution mechanisms; the DDPR was independent of government, and maintained a record of handling cases promptly. The DDPR resolved 1,365 out of 1,422 cases by year's end. The Commissioner of Labor was authorized to order the reinstatement of wrongfully dismissed employees and the payment of back wages, but she did not have the authority to impose criminal fines.

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

d. Prohibition of Child Labor and Minimum Age for Employment.—There are statutory prohibitions against the employment of minors in commercial, industrial, or nonfamily enterprises involving hazardous or dangerous working conditions; however, child labor was a problem in the informal sector. The government had no mechanism for inspection of the informal sector.

The legal minimum age for employment in commercial or industrial enterprises is 15 years, and the legal minimum age for hazardous employment is 18 years; however, children under 14 years of age reportedly were employed in family-owned businesses. Children under 18 years of age may not be recruited for employment outside of the country. Child labor laws covered all sectors except the agricultural sector.

Many urban street children worked in the informal sector. Most jobs performed by children were gender-specific: boys as young as ages four and five were livestock herders, carried packages for shoppers, washed cars, and collected fares for minibus

taxis; girls were domestic servants; teenage girls (and a few boys) were involved in prostitution (see section 5); and both boys and girls worked as street vendors.

In traditional society, rigorous and occasionally dangerous working conditions for young livestock herdboys were considered a prerequisite to manhood, essential to the livelihood of families, and a fundamental feature of local culture beyond the reach of labor laws. Reportedly the age of initiation into herding continues to drop. The emphasis on traditional socialization methods to the exclusion of formal education continued the cycle of poverty for most youth.

The Ministry of Employment and Labor is responsible for investigating child labor allegations. During the year, the (Ministry of Employment and Labor's Inspectorate) conducted quarterly inspections in the formal sector.

e. Acceptable Conditions of Work.—A national minimum wage is determined annually by the Wage Advisory Board, a tripartite entity consisting of the government, trade unions, and employees. In 2004 the government introduced a schedule of basic minimum wages for different sectors, such as manufacturing, construction, retail, service and mortuary services. The general minimum wage was \$103 (650 maloti). The national minimum wage for workers in lower-skilled jobs did not provide a decent standard of living for a worker and family. There was no evidence to suggest foreign employers were paid below the minimum wage. Most wage earners supplemented their income through subsistence agriculture or remittances from relatives in South Africa.

The labor code provides for basic worker rights, including a maximum 45-hour workweek, a weekly rest period of at least 24 hours, 12 days of paid leave per year, and paid sick and public holidays; however, employers did not always respect these rights in practice. Required overtime was legal as long as overtime wages were paid for work in excess of the legally mandated 45-hour workweek. Workers in the garment industry were paid the proper overtime rate for overtime hours worked. According to the commissioner of labor, employers in the security sector were the worst violators of the labor code. They regularly worked employees beyond the recommended hours, did not insure their workers against injury or death, and paid them below the minimum wage.

The labor code requires employers to provide adequate light, ventilation, and sanitary facilities for employees and to install and maintain machinery in a manner to minimize the risk of injury; employers generally followed these regulations. The labor code also empowers the Ministry of Employment and Labor to make regulations pertaining to work safety in specific areas, and the ministry has exercised this right. The labor code does not protect explicitly the right of workers to remove themselves from hazardous situations without prejudice to employment; however, sections on safety in the workplace and dismissal implied that such a dismissal would be illegal.

The law also provides for a compensation system for industrial injuries and diseases related to employment. The commissioner of labor, who operates as part of the Ministry of Employment and Labor, was charged with investigating allegations of labor law violations. Labor inspectors generally conducted unannounced inspections in factories four times a year.

LIBERIA

Liberia is a constitutional republic with a population of approximately 3.5 million. After 14 years of civil war and 2 years of an interim government, Ellen Johnson-Sirleaf was declared the winner of multiparty presidential elections on November 23, marking a significant milestone in the country's transition to democracy. Domestic and international observers considered the elections generally free and fair. President Johnson-Sirleaf replaced Chairman Charles Gyude Bryant, who led the interim National Transitional Government of Liberia (NTGL) since October 2003. In August 2003 the former government and the country's two rebel groups—Liberians United for Reconciliation and Democracy (LURD) and the Movement for Democracy in Liberia (MODEL)—signed the Comprehensive Peace Agreement (CPA), which ended the 1999–2003 civil war. Approximately 15 thousand peacekeepers deployed by the UN Mission in Liberia (UNMIL) and 1,100 international police (CIVPOL) had primary responsibility for maintaining security, while the Liberian National Police (LNP) and Armed Forces of Liberia (AFL) were being retired and retrained. Unlike in the previous year, former rebel combatants no longer retained control of some rural areas. Civilian authorities generally maintained effective control over security forces.

The NTGL generally respected the human rights of its citizens, and the government passed legislation during the year to strengthen human rights; however, problems persisted in some areas. Poverty, unemployment, and illiteracy were widespread, and the country's infrastructure was severely damaged as a result of the war. The educational system barely functioned, and the country had no public electricity, potable water, sewer system, or postal service. The following human rights problems were reported:

- ritualistic killings and deaths from mob violence
- police abuse, harassment, and intimidation
- harsh prison conditions
- arbitrary arrest and detention
- lengthy pretrial detention
- denial of due process and fair public trial
- incidents of trial-by-ordeal
- official corruption and impunity
- violence and discrimination against women, especially rape
- female genital mutilation (FGM)
- neglect and abuse of children
- trafficking in persons
- societal ethnic discrimination
- child labor

During the year the NTGL established an Independent National Commission on Human Rights (INCHR) and a Truth and Reconciliation Commission (TRC) to investigate human rights violations and war crimes committed during the civil war.

By year's end more than 25 thousand disarmed and demobilized former combatants were required to enroll in reintegration programs, including vocational training, psychosocial counseling, or school; approximately 15 thousand former combatants were employed. Some former combatants were responsible for human rights abuses during the year; however, there were considerably fewer reports of such incidents than in previous years.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings.

In 2003 as the war escalated, former government and rebel combatants killed an undetermined number of civilians by shooting them, burning them alive, or cutting their throats. Numerous internally displaced persons (IDPs) were killed during repeated raids on their camps. In late 2003 UNMIL and the interim government imposed order, but no action was taken against perpetrators of the summary executions, killings, or other crimes committed during the war. The newly established TRC was not operational at year's end.

Unlike in the previous year, CIVPOL investigators and human rights organizations did not uncover evidence of executions and massacres. In 2004 the Catholic Justice and Peace Commission (JPC) uncovered evidence of a 2002 massacre by former government forces of hundreds of civilians near Tubmanburg. No further investigation was made into these cases.

General Benjamin Yeaten, who was believed to have executed or supervised the 2003 execution of former deputy national security minister John Yormie and former deputy public works minister Isaac Vaye, remained in self-imposed exile at year's end.

There were no developments in any of the reported 2003 killings by the security forces of former president Taylor.

Unlike in the previous year, there were no reports that former government and rebel combatants killed civilians, but former combatants were responsible for civilian injuries (see section 1.c.).

No action was taken against the former MODEL fighter who killed a civilian in March 2004 for refusing to hand over his food. There were no developments in the May 2004 killing of a civilian by former soldiers during a demonstration to demand immediate payment of their resettlement grants.

Ritual killings, in which body parts used in traditional indigenous rituals were removed from the victim, reportedly occurred during the year.

There were sporadic instances of mob violence, which were exacerbated by ethnic conflict, religious differences, political divisions, vigilantism, high unemployment, and poverty. On September 30, an employee of a nongovernmental organization (NGO) witnessed a mob kill a man suspected of theft.

Unlike in the previous year, there were no reports of deaths resulting from land disputes. An independent investigation into the October 2004 dispute between Muslim Mandingos and Christian non-Mandingos found no government complicity in the ethnically based violence that resulted in 19 deaths. The 250 persons arrested in connection with the incident were released, and no trials had been conducted by year's end.

b. Disappearance.—There were no reports of politically motivated disappearances. During the civil war, government security forces and rebels were responsible for numerous disappearances.

The welfare and whereabouts of former Chief of Intelligence Peterson Marbiah, who disappeared when John Yormie and Isaac Vaye were arrested in 2003, remained unknown at year's end (see section 1.a.).

The 15 persons abducted in 2003 from Todee by former government militia remained missing at year's end.

Most of the ethnic Mandingo youths abducted between September 2002 and March 2003 by former government security forces for suspected involvement with the LURD rebel group remained unaccounted for at year's end.

The UNMIL investigation into the 2003 disappearance of foreign citizen Nabil Hage, who was believed to have been abducted by LURD, was ongoing at year's end. There were no developments in other 2003 abductions by LURD.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, prior to August 2003, police and security forces frequently tortured, beat, raped, and otherwise humiliated persons, particularly during interrogations of LURD detainees at the Gbatata security training base. According to Amnesty International, 73 percent of women over 18 who registered for the 2003–04 Disarmament, Demobilization, Rehabilitation, and Reintegration (DDRR) program reported sexual abuse.

During the year LNP officers sometimes abused, harassed, intimidated, and extorted bribes from persons, particularly at checkpoints.

For example, on September 30, LNP officers at a joint LNP and UNMIL–CIVPOL checkpoint beat and kicked the driver of a foreign embassy vehicle and arrested him; the driver had followed standard practice in refusing to allow the search of a diplomatic vehicle. One LNP officer was fired in connection with the incident, and two others were suspended for three months.

Political party members harassed and, in some cases, beat foreign and domestic journalists for allegedly supporting the opposition party (see section 2.a.).

During the year demonstrations by former combatants protesting disarmament or the government's failure to complete resettlement grants resulted in civilian injuries and extensive property damage. For example, on May 11, former combatants attacked NGO offices involved in demobilization activities; several persons were injured. The attackers were disgruntled because they had not been paid, and their training had been delayed.

During a May 27 graduation from a skills training program, more than one thousand former combatants began rioting and smashing vehicles when they learned they would not receive the tools and training benefits that they had been promised upon graduation; two persons were injured. Police arrested and briefly detained several of the former combatants.

In November an UNMIL peacekeeper was arrested for raping a nine-year-old girl. The peacekeeper was being detained at year's end, and UNMIL was conducting an investigation.

The law prohibits trial-by-ordeal, which involves the placement of a heated metal object on a suspect's body or the insertion of an extremity into hot oil to determine whether the defendant is telling the truth; however, the practice reportedly continued in rural areas.

Lack of confidence in the police and judicial system resulted in mob violence and vigilantism (see section 1.a.).

Prison and Detention Center Conditions.—Prison conditions were harsh and in some cases life threatening. The government did not provide detainees or prisoners with adequate food or medical care; however, an NGO continued its 2004 program to provide food to the prisons. During the year an NGO refurbished prison cells at Monrovia Central Prison, but the prison still held twice its maximum capacity, primarily due to the large number of pretrial detainees. In some counties the structure

that served as a jail was a container with bars at one end. There also were reports that local officials forced prisoners to work for them.

There were no separate facilities for juvenile offenders. Convicted prisoners and detainees awaiting trial were not held in separate facilities. During the year a prison in Voinjama placed the accuser and the accused in the same cell for more than a month, even after the accuser admitted that he had accused the wrong person. Women and particularly juveniles were subject to abuse by guards or other inmates.

The government permitted the independent monitoring of prison conditions by local human rights groups, the media, and the International Committee of the Red Cross (ICRC). Some human rights groups, including the ICRC, made regular visits to detainees held in police headquarters and prisoners in Monrovia Central Prison.

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

Role of Police and Security Apparatus.—The Ministry of Justice has responsibility for enforcing law and maintaining order within the country and oversees the LNP and the National Bureau of Investigation (NBI). Approximately 15 thousand UNMIL peacekeepers and 1,100 CIVPOL officers had primary responsibility for maintaining security while the LNP and the AFL, which was under the Defense Ministry, were being retired and retrained during the year. Approximately 600 CIVPOL officers assisted with restructuring, recruitment, training, and equipping the LNP, which was comprised of new recruits and those who served under the former Taylor administration. During the year CIVPOL recruited, trained, and deployed more than 1,100 LNP officers to Monrovia and 7 surrounding counties; an additional 300 recruits were sent to Nigeria for further training. In September the LNP opened a Women's and Children's Protection Section, and 50 officers had completed training to staff the unit by year's end. The LNP operated independently and retained arrest authority; however, CIVPOL accompanied LNP officers in joint patrols around Monrovia.

LNP officers, who were not equipped with firearms, were slow to respond and often ineffective, which resulted in an increase in armed robberies during the year. Corruption and impunity were problems. Unlike in the previous year, police handling of mob violence did not result in deaths; however, there were reports of police brutality, particularly during demonstrations. Police had limited logistics and forensic capabilities and did not adequately investigate many crimes, including murders. The LNP, with the assistance of CIVPOL's non-compliance unit, investigated reports of police misconduct, and CIVPOL issued several notices of noncompliance to LNP officers during the year. However, dismissals or other strong disciplinary measures were taken only in the most severe cases, such as rape or serious assault.

Public confidence in the police remained low, and vigilante groups formed during the year to protect persons and property. For example, on October 21, a vigilante group defended a Monrovia community against armed robbers because the LNP were unarmed and slow to respond.

Arrest and Detention.—The law requires warrants to make arrests and provides that detainees either be charged or released within 48 hours; however, warrants were not always based on sufficient evidence, and detainees, particularly those without the means to hire a lawyer, often were held for more than 48 hours without charge. The law also provides for bail, but few suspects could afford it. Detainees have the right to prompt access to counsel and, if indigent, to have an attorney provided by the state, but the government did not ensure such access for all detainees.

On January 10, LNP officers arrested approximately 90 villagers who threatened to burn the Liberian Agriculture Company (LAC) rubber plantation, which planned to expand its operation into neighboring villages. The villagers did not want to relocate and were dissatisfied with LAC's financial settlement. The LNP detained the villagers in a jail cell designed for 12 persons and held them for more than 24 hours without food, water, or adequate toilet facilities. CIVPOL subsequently discovered the villagers and characterized their detention as "inhumane and illegal," noting that the LNP had prepared no arrest report or list of those detained. On January 11, the Ministry of Justice ordered the immediate release of the detainees, and the LAC expansion was stalled at year's end.

On September 30, LNP officers at a joint LNP and UNMIL-CIVPOL checkpoint beat and arrested the driver of a foreign embassy vehicle (see section 1.c.).

Unlike in the previous year, there were no reports that former rebel combatants arbitrarily arrested civilians and IDPs during the year.

No action was taken against former LURD combatants for arbitrarily arresting persons in June and August of 2004.

There were no reports of political detainees.

Although the law provides for the right of a person who is charged to receive an expeditious trial, lengthy pretrial and pre-arraignment detention remained serious problems. Trial delays were caused by judicial inefficiency, lack of court facilities and qualified judges, and corruption. In some cases the length of pretrial detention equaled or exceeded the length of sentence that could be imposed for the crime. Approximately 97 percent of the prisoners housed at Monrovia Central Prison were pretrial detainees. On September 30, the JPC reported that there were an estimated 40 inmates who had been jailed for more than 500 days without trial.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, judges were subject to political, social, familial, and financial pressures, and the judiciary was corrupt. Courts regularly received bribes or other illegal gifts from damages that they awarded in civil cases. Defense attorneys often suggested that their clients pay a gratuity to appease or secure favorable rulings from judges, prosecutors, jurors, and police officers. By statute members of the bar must be graduates of a law school and pass the bar examination; however, some judges and magistrates were not lawyers. On September 16, the Supreme Court ordered the closure of all noncommissioned justice of the peace courts; however, some courts were still operating at year's end. No replacement courts were in place at year's end. There were reports of executive branch influence over the judiciary.

The judiciary is divided into four levels, with the Supreme Court at the apex. All levels of the court system in Monrovia, including the Supreme Court, barely functioned. The Supreme Court appointed judges to counties outside of Montserrado but four counties still did not have a court house at year's end, and others were in disrepair. Although judges were assigned throughout the country, in some cases they were unable to hold court due to lack of security, supplies, or equipment. There were five qualified prosecutors and nine public defenders in the country.

Trial Procedures.—Trials are public and juries are used in circuit court trials but not at the magistrate level. Under the law, defendants have the right to be present, to consult with an attorney in a timely manner, and to have access to government-held evidence relevant to their case; however, in practice these rights were not always observed. Defendants in criminal trials enjoy a presumption of innocence and have the right to an attorney, to confront witnesses in a public trial, and to appeal adverse decisions, but many of these protections were not available to defendants who could not pay bribes. There was no effective system to provide public defenders, especially in rural areas. Some local NGOs provided legal services to indigents and others who had no representation. There continued to be long delays in deciding cases.

Traditional forms of justice administered by clan chieftains remained prevalent in some localities (see section 1.c.).

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law provides for the right of privacy and the sanctity of the home and requires that police obtain a warrant or have a reasonable belief that a crime is in progress, or is about to be committed, before entering a private dwelling. The government generally respected these rights, and unlike in the previous year, there were no reports that police officers entered private homes, churches, and newspaper offices without warrants.

Police occasionally extorted money and goods from citizens, particularly at checkpoints.

Unlike in the previous year, there were no reports that former rebel combatants compelled communities to provide for them.

During the year the government ordered members of the Gio and Mano ethnic groups to leave the homes they occupied in Nimba and Lofa counties and return them to their Mandingo owners, who had fled the country during the civil war. The Gios and Manos refused to leave the homes, and the government did not forcibly reconstitute the properties to their Mandingo owners. A court case was ongoing at year's end.

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 unlike in the previous year, the government generally respected these rights in practice.

In 2004 there were reports that the NTLA threatened to arrest persons who criticized the legislative body or refused to appear before it, but there were no such reports during the year.

In Monrovia there were more than 30 newspapers that published during the year with varying degrees of regularity. Three were independent dailies, and nine ap-

peared at least twice a week. Most newspapers were printed by one printing facility, but other facilities opened during the year.

Due to the price of newspapers and transportation, the estimated 75 percent illiteracy rate, and road conditions elsewhere in the country, newspaper distribution generally was limited to the Monrovia region. As a result radio was the primary means of mass communication. There were 12 independent radio stations that regularly broadcast in Monrovia, 25 local stations, and 1 government-operated station. Radio stations operated without government restrictions.

There were three local television stations; however, television was limited to those who could purchase sets, generators, and fuel to provide electricity. For those persons and businesses with satellite capability, CNN, BBC, Skynews, and SABC Africa generally were available.

During the year political party members attacked journalists at political rallies. The attackers claimed that the journalists were members of the opposition. Some persons sustained minor injuries.

No action was taken during the year against Anti Terrorist Unit forces responsible for the January 2003 torture of Throble Suah, a reporter for the *Liberian Inquirer* newspaper.

Journalists reportedly extorted money from citizens by threatening to publish negative articles about them and accepted bribes from politicians to publish negative articles about their opponents. After the Press Union of Liberia changed management during the year, the union encouraged citizens to file complaints against newspapers that published false information.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for the right of peaceful assembly, and the government generally respected this right.

LNP, CIVPOL, and UNMIL troops used tear gas to disperse demonstrations during the year, and there were reports of police brutality. Unlike in the previous year, there were no reports that UNMIL troops beat demonstrators.

In January LNP officers used tear gas to disperse a demonstration at the Liberia Telecom Corporation; some demonstrators received minor injuries. At a political rally in September, police with batons beat persons after party supporters began fighting for t-shirts. In the beginning of October LNP officers used tear gas against their own superiors to protest their lack of regular pay. On November 11, following the release of the preliminary November 8 election results, UNMIL troops used tear gas to disperse a demonstration in support of presidential contestant George Weah.

No action was taken against former government security forces who forcibly dispersed and beat demonstrators in 2003, and none was considered likely.

Freedom of Association.—The law provides for the right of association, and the government generally respected this right in practice. There were 30 registered political parties. Dozens of civil society organizations, organized around themes such as human rights, women's issues, development objectives, poverty alleviation, health concerns, and worker's associations, were active.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. During the year respect for religious freedom continued to improve. Since taking office, the NTGL at all levels worked to protect this right in full and did not tolerate its abuse, either by governmental or private actors. Unlike in the previous year, differences between major religious groups did not result in mob violence.

All organizations, including religious groups, must register with the government; however, traditional indigenous religious groups were not required to register, and generally did not do so. Registration was routine.

Although the law prohibits religious discrimination, Islamic leaders complained of some discrimination against Muslims. During the voter registration process, Muslim Mandingos were sometimes asked to provide extra documentation to prove citizenship; election officials claimed the additional documentation was in response to attempts by some noncitizen Mandingos to register. Although Muslims held senior government positions, including four ministerial posts, many Muslims believed they were bypassed for lower level civil service positions. Some Muslims complained that only Christian holidays were officially observed.

Societal Abuses and Discrimination.—Some tensions existed between the major religious communities. The private sector in urban areas, particularly in the capital, gave preference to Christianity in civic ceremonies and observances, and discrimination against followers of other organized religions affected areas of individual opportunity and employment. Unlike in the previous year, ethnic, religious, and other differences between Muslim Mandingos and Christian non-Mandingos in Monrovia did

not result in mob violence. However, ethnic tensions—often resulting from unresolved property issues—continued in Lofa County between the Mandingo and Lorma ethnic groups. Throughout the year the Inter-Religious Council promoted dialogue between religious groups.

Incidents of ritualistic killings were reported during the year. Little reliable information was readily available about traditions associated with the practice in which body parts used in indigenous rituals were removed from the victim. The number of such killings was difficult to ascertain, since police often described deaths as accidents or suicides even when body parts were removed. It was believed that practitioners of traditional indigenous religions among the Grebo and Krahn ethnic groups concentrated in the southeastern counties most commonly engaged in ritual killings. The victims were usually members of the religious group performing the ritual, and often included women and children. Body parts removed from a member whom the group believed to be powerful were considered to be the most effective ritually.

On June 2, in Grand Gedeh County, ritualistic killings were reported, and in July residents of Zwedru demonstrated against an increase in ritualistic killings. During the year NTGL Chairman Bryant stated that he would personally sign the death warrant of anyone found legally guilty of a ritualistic killing; however, no one was prosecuted for ritualistic killings during the year.

There was no notable Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2005 *International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and unlike in the previous year, the government respected them in practice. As of year's end, government and UNMIL security forces effectively controlled all of the country, including all major border crossings. LNP officers reportedly subjected travelers to arbitrary searches and petty extortion at checkpoints in and around Monrovia; however, unlike in the previous year, ethnic Mandingos were not singled out for such harassment.

Unlike in the previous year, the government did not impose curfews.

The law prohibits forced exile, and the government did not use it.

Internally Displaced Persons (IDPs).—Relief agencies estimated that as of December, approximately 272 thousand IDPs had returned home since the end of the war, and approximately 54 thousand were awaiting repatriation in camps, settlements, and communities throughout the country. Conditions at most IDP camps were fair, but food, sanitation, and security were sometimes inadequate. During the year the government worked with international organizations to return IDPs to their homes and planned to resettle 15 thousand to 20 thousand IDPs per month. However, road conditions, elections, and intermittent funding gaps temporarily halted the return process and angered thousands of IDPs who planned to return home before the elections. Some IDPs chose to stay in camps because conditions were better than in the communities from which they came, while others remained to see whether peace would be sustained after the elections. Unlike in the previous year, there were no reports that former government and rebel combatants subjected IDP populations to rape, battery, arbitrary arrest, extortion, and theft. However, there were reports of rape in IDP camps, primarily committed by other IDPs or members of the surrounding community.

Approximately 190 thousand refugees from the country remained in neighboring countries, primarily in Sierra Leone, Guinea, Cote d'Ivoire, and Ghana. During the year UNHCR assisted the repatriation of approximately 35 thousand refugees, and another 30 thousand refugees returned to the country without assistance.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government generally cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and 1967 protocol.

Unlike in previous years, there were no reports that refugees also were subjected to abuse, primarily by former government and rebel combatants who had reorganized as gangs.

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 during the year in presidential and parliamentary elections deemed generally free and fair by domestic and international observers.

Elections and Political Participation.—On November 23, the National Electoral Commission (NEC) declared Ellen Johnson-Sirleaf, who won 59.4 percent of the vote, the winner of the November 8 run-off presidential election; none of the 22 presidential candidates received the required 50 percent plus one vote to win in the October 11 election. October election voters selected 30 senators and 63 representatives. Congress for Democratic Change (CDC) candidate and runner-up George Weah received 40.6 percent of the vote in the November 8 run-off election.

Despite the international community's assessment that the elections were free and fair, Weah mounted a legal challenge and charged the NEC with electoral fraud. On December 16, the NEC concluded that the CDC had presented no convincing evidence of fraud, and that errors committed during the electoral process had a "negligible effect" on the outcome of the run-off election. The CDC did not appeal the decision. There were a few reports of violence and intimidation during the elections and many irregularities. Members of the Mandingo community complained of discrimination and harassment during the voter registration process, the NEC Chairwoman publicly criticized one of the presidential candidates, and presiding officers assisted illiterate voters after they had reached the voting booths.

The NEC registered 30 political parties, 22 of which ran presidential candidates in the election. Individuals and parties freely declared their candidacies, and membership in the dominant parties did not confer any formal advantage.

The state is highly centralized. The law provides that the head of state appoint county superintendents. Local governments had no independent revenue base and relied entirely on the central government for funds. As a result there was limited government functioning outside of Monrovia, and civil servants often waited for months to receive salaries. NGOs provided many basic services, including education, health, and public works. Local officials served mainly to lobby the central government.

Along with the election of the country's first female president, there were 3 female ministers in the NTGL, 4 women in the 26-seat NTLA, and 1 female supreme court judge. The head of the NEC, also a former supreme court justice, was a woman.

Government Corruption and Transparency.—Corruption was endemic throughout the government, and financial mismanagement and lack of accountability were serious problems. There was a widespread public perception of corruption in all branches and levels of government.

On September 9, the NTGL signed an agreement to implement the Governance and Economic Management Assistance Program (GEMAP), which calls for the provision of international financial controllers in key ministries and state-owned enterprises and requires full disclosure of governmental financial transactions. Such measures would be directed at purchasing and contracting practices, which lacked transparency and frequently did not include competitive bids.

The government dismissed or suspended a number of high-level officials for corruption. On March 14, the NTLA suspended its speaker, George Dweh, for allegedly embezzling \$90 thousand (5.86 million ld). On April 12, the government suspended Orishall Gould, managing director of the National Social Security and Welfare Corporation, for the alleged embezzlement of more than \$600 thousand (32.4 million ld). On August 3, the government charged J.D. Slinger, head of the Bureau of Maritime Affairs, with embezzling \$3.5 million (189 million ld). After a few days of evading arrest, Slinger surrendered but was released on bail and believed to have left the country. On August 13, security forces arrested Alphonso Gaye, managing director of the Port Authority, and charged him with embezzling \$600 thousand (32.4 million ld). Gaye was released on bail, and the case was pending trial at year's end.

On November 17, in a decision that generated widespread press criticism, the NTLA passed a law allowing legislators to take government vehicles for private use when they left office. In December legislators leaving office stripped the capitol building of desks, computers, chairs, and carpeting.

In 2004 the government suspended Police Director Massaquoi and Customs and Excise Commissioner Bennie on charges of corruption; however, neither case was prosecuted during the year.

The law provides for "no limitation on the public right to be informed about the government and its functionaries"; however, little government information was available, and there were few procedures for obtaining it. Since government officials

frequently circumvented established procedures, there also were few methods to track financial transactions.

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 somewhat cooperative and responsive to their views.

There were three coalitions of human rights groups: the National Human Rights Center of Liberia had nine member organizations; eight other groups comprised the Network of Human Rights Chapters; and four belonged to the Federation of Human Rights Organizations. The Human Rights and Protection Forum, an umbrella organization of 70 to 80 groups, also participated. These organizations sought to increase public discussion of human rights problems.

During the year the government worked to facilitate the free and safe passage of relief supplies by international NGOs and permitted visits by the UN Panel of Experts, the ICRC, and various UN agencies (see section 1.c.). Unlike in the previous year, there were no reports that former rebel combatants blocked the delivery of humanitarian supplies.

There were no developments in the 2003 case in which unidentified assailants assaulted and sexually abused three nieces of Ishmael P. Campbell, a human rights advocate and vice president of the Liberia Bar Association.

In 2004 the government established the INCHR to monitor compliance with human rights as provided for in the CPA and to promote human rights education in the schools, media, police, and military; however, the INCHR was largely ineffective due to insufficient funding.

In October Chairman Bryant announced the four female and five male members of the TRC, which was established to investigate human rights violations between January 1979 and October 2003 and to make recommendations about reparations, institutional reform, and prosecution of individuals. The TRC was scheduled to begin operation within three months of the induction of its nine members.

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

The law prohibits discrimination based on ethnic background, race, sex, creed, place of origin, or political opinion; however, the government did not effectively enforce these provisions. There were no laws against gender discrimination, ethnic discrimination, or FGM. Differences involving ethnic groups, notably the Krahn, Mano, Gio, Lorma and Mandingo ethnic groups, continued to contribute to social and political tensions.

Women.—The law prohibits domestic violence; however, it was widespread and not seriously addressed by the government, the courts, or the media. Several NGOs continued programs to treat abused women and girls and to increase awareness of their rights. LNP officers received training on sexual offenses as part of their initial training. During the year UNMIL, CIVPOL, UNICEF, and the Sierra Leone police facilitated a 3-week training program for approximately 50 LNP investigators assigned to the Women's and Children's Protection Section that deals with sexual offenses.

On December 22, the NTLA passed legislation to strengthen existing rape laws. The new law provides sentences for rapists from seven years' to life imprisonment; accused rapists are ineligible for bail. Rape was common during the country's 14-year civil war, including in IDP camps. Few perpetrators were prosecuted due to a weak legal system, poor evidence, or social taboos against reporting sexual offenses. In December security forces reportedly arrested a traditional leader in Lower Margibi County for allegedly raping a nine-year-old girl and a Monrovia man for allegedly raping his step-daughter.

FGM traditionally was performed on young girls in northern, western, and central ethnic groups, particularly in rural areas. Because social structures and traditional institutions, such as the secret societies that often performed FGM as an initiation rite, were undermined by the war, many experts believed that the incidence of FGM had dropped to as low as 10 percent. However, since the end of the civil war, traditional societies were reestablishing themselves throughout the country, and the practice of FGM was believed to be increasing. The most extreme form of FGM, infibulation, was not practiced. The government took no action against FGM during the year.

Although prostitution is illegal, it was widespread.

The law does not prohibit sexual harassment, and it was a problem.

Women have not recovered from the setbacks caused by the war, when many schools were closed, and they were prevented from maintaining their traditional roles in the production, allocation, and sale of food. Thousands of women remained displaced, preventing them from pursuing livelihoods or education.

Women can inherit land and property, received equal pay for equal work, and were allowed to own and manage businesses. The government prohibits polygyny; however, traditional laws permit men to have more than one wife.

During the year professional women's groups—including lawyers, market women, and businesswomen—vocally expressed concern regarding government corruption, the economy, security abuses, rape, domestic violence, and children's rights.

Children.—The government generally was unable to provide for the education and health of children. Due to the poor condition of government schools, many children who attended school, particularly in Monrovia, went to private institutions. Education was compulsory until students reached 16 years of age. Many private schools still needed to be refurbished due to wartime damage. School fees remained relatively high, thereby making education unattainable for many school-age children. In both public and private schools, families of children often were asked to provide their own uniforms, books, pencils, paper, and even desks. According to a 2003 UN Children's Fund (UNICEF) report, more than half of school-age children did not attend school.

Throughout the year local and international NGOs reported widespread child abuse, particularly by parents. Traditional punishments were often physical and included beatings with sticks and straps. Sexual violence against children was a problem in some areas, according to a 2004–05 study by the National Child Rights Observatory Group.

FGM was performed primarily on young girls (see section 5, Women).

Child prostitution and trafficking were serious problems (see section 5, Trafficking).

More than 15 thousand children were disarmed and demobilized during UNMIL's 2003–04 DDRR program. During the year ICRC efforts to reunite children who had been separated from their families during the war, including child soldiers, continued. Since 2003 approximately 700 children were reunited with their families, and an estimated 400 children awaiting reunification remained scattered within the country and in refugee camps outside of the country, according to the ICRC. Former child soldiers who turned over their weapons were entitled to a three-month stay in an Interim Care Center (ICC), which offered medical aid, counseling, reading lessons, and help tracing families. Initially many children refused to leave the ICCs due to concerns for their personal safety and lack of schools or other support in their communities; however, during the year many more children were successfully repatriated to their home communities.

Unlike in the previous year, there were no reports that former rebel combatants forcibly conscripted persons, including children, to serve as porters, laborers, and sex slaves.

Child labor was a problem (see section 6.d.).

There were thousands of children living on the streets of Monrovia, but it was difficult to tell who were street children, former combatants, or IDPs. Nearly all youths witnessed atrocities, and some committed atrocities. There were 40 registered orphanages and many unofficial orphanages that served as transit points or informal group homes. Orphanages were underfunded and had difficulty providing basic sanitation, adequate medical care, and appropriate diet. Many orphans lived outside these institutions, which received erratic government funding and relied primarily on private donations. In September a special government task force, composed of 17 organizations including the UN and NGOs, promised to close 35 orphanages that were exploiting orphans.

Trafficking in Persons.—In June NTGL Chairman Bryant signed into law the country's first antitrafficking bill, which provides for criminal penalties ranging from one year to life in prison for traffickers; however, there were reports that persons were trafficked to, from, and within the country. Enforcement efforts were weak, but unlike in the previous year, the government did not obstruct the prosecution of suspected traffickers. One suspected trafficker was tried and acquitted during the year.

On September 7, the court acquitted a nightclub proprietress arrested in May 2004 on charges of trafficking three Moroccan women. The ministries of justice and labor have primary responsibility for combating trafficking.

NGO estimates of the number of persons trafficked to the country during the year ranged between 20 and several hundred. Victims were trafficked within the country and from neighboring countries for prostitution and labor. Young children were at

a particularly high risk for trafficking, especially orphans or children from extremely poor families. Trafficking victims were often subjected to harsh living and working conditions.

There were reports of forced labor; however, none had been confirmed. There also were reports of the recruitment of child soldiers, but the reports had not been confirmed, and the matter was under investigation at year's end.

Traffickers enticed their victims with promises of a better life. Parents of trafficking victims were persuaded that their children would have better food and educational opportunities in another country and that they would eventually return home.

The international NGO AG Charities worked with the government, local NGOs, and churches to provide assistance to a limited number of trafficking victims, and the LNP opened the Women's and Children's Protection Section, in part to address trafficking issues.

AG Charities raised awareness about trafficking during the year through rallies, marches, and education campaigns. An antitrafficking task force composed of NTGL representatives, international organizations, foreign governments, and local NGOs began work during the year to develop a national antitrafficking action plan.

Persons with Disabilities.—Although it is illegal to discriminate against persons with disabilities, in practice they did not enjoy equal access to public buildings or government services. No laws mandate access to public buildings, and streets, schools, public buildings, and other facilities were generally in poor condition and inaccessible to persons with disabilities. As a result of the civil wars, a large number of persons had permanent disabilities, in addition to those disabled by accident or illness. Persons with disabilities faced discrimination, particularly in rural areas. Babies with deformities often were abandoned. Some NGOs provided services to persons with disabilities. During the year special ballots were created to assist visually impaired voters.

National/Racial/Ethnic Minorities.—Although the law prohibits ethnic discrimination, it also provides that only "persons who are Negroes or of Negro descent" may be citizens or own land. Many persons of Lebanese and Asian descent who were born or have lived most of their lives in the country were denied full rights as a result of this racial basis for citizenship.

The country has 16 indigenous ethnic groups; each spoke a distinct primary language and was concentrated regionally. No ethnic group constituted a majority of the population.

During the year ethnic, religious, and other differences between Mandingos and non-Mandingos continued but did not result in mob violence, as in previous years. During the Taylor administration, many Mandingo citizens fled their homes as a result of discrimination, arbitrary arrests, and violence; however, during the year Mandingos continued to return to Lofa, Bong, and Nimba counties.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers, except members of the military and police, the right to associate in trade unions, and workers exercised this right in practice. The law also prohibits unions from engaging in partisan political activity. Unlike in previous years, there were no reports of government interference in union activities.

Union power was extremely limited. Since the country's workforce largely was illiterate, economic activities beyond the subsistence level were very limited, and labor laws tended to favor management. However, during the year more employees, particularly civil servants, were willing to challenge management, reportedly because they felt safer doing so than previously.

The law does not prohibit antiunion discrimination, but there were no reports of such discrimination during the year.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. With the exception of civil servants, workers have the right to organize and bargain collectively; these rights largely were untested during the year because of the lack of economic activity. There are no export processing zones.

A 1984 People's Redemption Council decree nullified labor laws that provided for the right to strike, but that decree has not been enforced for years. Due to the destruction of the economy and the estimated 80 percent unemployment rate, strikes were infrequent.

c. Prohibition of Forced or Compulsory Labor.—Although the law prohibits forced or compulsory labor, there were reports that such practices occurred (see sections 5 and 6.d.). There also were reports of forced child labor, but none of these reports

were confirmed. There also were reports that local officials forced convicts to work for them.

Unlike in the previous year, there were no reports that former LURD and MODEL combatants used forced labor to serve as porters, sex slaves, and to dig gold and diamonds in territories they controlled.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children under the age of 16 during school hours in the wage sector; however, due to extreme poverty and lax enforcement, child labor was a serious and widespread problem. The minimum age for employment was consistent with the mandatory age for education. The Ministry of Labor lacked the resources to carry out its mandate to monitor child labor. Throughout rural areas, particularly where there were no schools, small children continued to take care of younger brothers and sisters and to work on family subsistence farms. In urban areas children assisted their parents as vendors in markets or they hawked goods on the streets.

During the year there were media reports that a foreign rubber company employed child labor. The company, which had a minimum age requirement for employment of 18 years, claimed that some employees had sent their children to tap rubber in their place. A legal case against the company was filed in a foreign court.

Unlike in the previous year, there were no reports that former government and rebel combatants forced children to work in the alluvial mining industry. There also were no reports that rebel combatants forcibly conscripted persons, including children, to serve as porters, forced laborers, and sex slaves.

e. Acceptable Conditions of Work.—The law requires a minimum wage of approximately \$0.20 (10 ld) per hour not exceeding 8 hours per day, excluding benefits, for unskilled laborers. The law also requires that agricultural workers be paid \$1.20 (60 ld) for an 8-hour day, excluding benefits. Skilled labor has no minimum fixed wage. The highly competitive minimum wage jobs did not provide a decent standard of living for a worker and family. Families dependent on minimum wage incomes also engaged in subsistence farming, small-scale marketing, and begging. Unlike in previous years, the government generally paid civil servant salaries, but payment arrears grew in the second half of the year.

The law provides for a 48-hour, 6-day regular workweek with a 30-minute rest period per 5 hours of work. The 6-day workweek may extend to 56 hours for service occupations and to 72 hours for miners, with overtime pay beyond 48 hours.

The law provides for paid leave, severance benefits, and safety standards, but enforcement was targeted solely at foreign-owned firms that generally observed these standards. There were government-established health and safety standards that the Ministry of Labor was responsible for enforcing; however, the ministry rarely enforced them. The law does not give workers the right to remove themselves from dangerous situations without risking loss of employment.

Due to the country's continued economic problems, most citizens were forced to accept any work they could find regardless of wages or working conditions. The Ministry of Labor lacked the resources to monitor compliance with labor laws.

MADAGASCAR

The country is a multiparty democracy with a population of approximately 18 million. President Marc Ravalomanana, who was elected in 2001 amid widespread allegations of fraud, and his party, Tiako-I-Madagasikara (TIM), dominated political life. The 2002 legislative elections, which international observers judged as generally free and fair, resulted in an overwhelming victory for TIM and its alliance partners. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens and continued its efforts to combat trafficking and to curb widespread official corruption; however, serious human rights problems—some of which were exacerbated by widespread poverty—continued, including:

- security force use of excessive force, which resulted in deaths and injuries
- harsh prison conditions, which resulted in deaths
- arbitrary arrest of demonstrators and opposition politicians
- lengthy pretrial detention
- restrictions on freedom of speech and of the press
- forcible dispersion of demonstrators, which resulted in injuries

- restrictions on freedom of religion
- official corruption
- societal discrimination and violence against women
- trafficking in women and girls
- child labor, including forced labor

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, security forces killed criminal suspects and other persons.

In March security forces used grenades and machine guns during the apprehension of three alleged kidnappers, all of whom were killed. One minor was killed and another injured in this operation. A government investigation claimed that security forces had used appropriate force. Also in March prison guards at Tsiafahy prison killed three inmates during an escape attempt.

On May 7, Jone Yvon Hajaniaina Rafanomezantsoa died in police custody after killing two persons in a traffic accident. Police officials charged that Rafanomezantsoa committed suicide by banging his head against his cell wall; however, family members subsequently released autopsy photos that were inconsistent with suicide. No investigation had been conducted by year's end.

In August a gendarme in Ikelihorombe killed 10 persons accused of cattle theft although local judicial authorities had cleared the 10 of all charges. An investigation was being conducted at year's end.

On October 21, National Assembly Deputy Herihajaina Randrianirina was convicted of the March 2004 murder of a gendarme officer and sentenced to seven years of forced labor.

b. Disappearance.—There were no reports of politically motivated disappearances. Several members of the Indo-Pakistani community were kidnapped; the motives appeared to be criminal, and the victims generally were released after payment of ransom.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution provides for the inviolability of the person; however, security forces subjected prisoners to physical abuse.

Police forcibly dispersed demonstrators, which resulted in injuries (see section 2.b.).

In February four grenades exploded outside judicial offices in Antananarivo. Press reports claimed the perpetrators intended to intimidate striking members of the Magistrates' Union (see section 6.b.).

The remaining detainees held in connection with the June 2004 grenade attacks in Antananarivo, Tamatave, and Fianaranstsoa were released without charge. The perpetrators in the 2004 Mahajunga grenade attack were sentenced and released. The trial of the suspects in the Tulear grenade attack was completed; the perpetrators, who were released on bail, were awaiting judgment at year's end.

Prison and Detention Center Conditions.—Prison conditions were harsh and life threatening. The country's 99 facilities, which were built for approximately 13 thousand prisoners, held 20,294 at year's end, according to the Ministry of Justice. The prison in Ambositra had a capacity of 80 inmates but held 400. Once tried, prisoners were required to pay a court fee before receiving their judgment. Prisoners unable to pay the fee were returned to jail, which contributed to overcrowding. Prison cells averaged less than 1 square yard of space per inmate, and a prisoner's diet consisted of 100 grams of cassava or rice per day. Families and nongovernmental organizations (NGOs), including the Catholic Prison Chaplains, supplemented the daily rations of some prisoners. Church leaders and NGOs reported that rape was commonplace in the prisons and often used by prison guards and other inmates to humiliate prisoners. Prisoners could be used as forced labor (see section 6.c.).

Medical care was inadequate. The International Committee of the Red Cross (ICRC) and the Ministry for Health and Family Planning provided disinfection services to prevent the outbreak of epidemics; however, 144 prisoners died from malnutrition, disease, and neglect between January 1 and September 30.

Juveniles were not always held separately from the adult prison population, and some preschool-age children shared cells with their incarcerated mothers. Approximately 480 of the country's 20,294 prisoners were under 18. Pretrial detainees were not always kept separate from the general prison population.

The government generally permitted independent monitoring of prison conditions by the ICRC and some NGOs, and such visits occurred during the year.

d. Arbitrary Arrest or Detention.—The law provides for due process for persons accused of crimes and prohibits arbitrary arrest and detention; however, the government did not always respect these provisions in practice.

Role of the Police and Security Apparatus.—The minister for public security heads the national police and is responsible for law and order in urban areas. The Gendarmerie Nationale, overseen by the Ministry of National Defense, is responsible for security in all other areas of the island.

The national police and gendarmerie were ineffective, in part due to lack of training and equipment, low salaries, and rampant corruption. During the year the government prosecuted security force members for corruption. In January the Independent Anticorruption Bureau (BIANCO) ordered the arrest of a police officer for soliciting bribes. In February three army officers were charged with trafficking in contraband; two of the three were fined and sentenced to six months' imprisonment.

Arrest and Detention.—Although the law provides that arrest warrants be obtained in all cases except those involving hot pursuit, often persons were detained and jailed on no more than an accusation by another. Defendants have a general right to counsel and the right to be informed of the charges against them, but the government was only required to provide counsel in cases in which indigent defendants faced charges carrying sentences greater than five years. A system of bail exists, but was not available to many defendants in practice. Magistrates often resorted to an instrument known as a retaining writ ("mandat de depot") by which defendants were held in detention for the entire pretrial period.

During the year security forces arrested student demonstrators, religious leaders, and opposition politicians (see sections 2.b., 2.c., and 3).

On September 23, Victor Hong, president of the Families of Persons Arrested During the 2002 Political Crisis Association, was released for lack of evidence. Hong had been arrested in 2004 for organizing a demonstration without a permit and for "threatening state security" by loaning a vehicle to an opposition colonel who used it during the 2002 political crisis. The trial court sentenced him to 5 months' imprisonment, which he served, for organizing the demonstration and 42 months' imprisonment, which was reduced during the June 26 amnesty, for loaning the vehicle. In September the appeals court released him for lack of evidence on the vehicle charge.

There were no reports of political detainees.

Long pretrial detention was a serious problem. The law mandates that a criminal suspect be charged or released within 48 hours of arrest; however, during the year the government detained individuals for significantly longer periods of time before charging or releasing them. In April the press highlighted the case of a woman who had been in pretrial investigative detention for over five years.

In December the Ministry of Justice reported that 14,185 persons, or approximately 70 percent of the entire prison population, were in pretrial detention. Poor record keeping, lack of resources, and the difficulty of access to remote parts of the island hindered the monitoring of pretrial detainees. Despite legal protections, investigative detentions often exceeded one year. Many detainees spent a longer period in investigative detention than they would have spent incarcerated following a maximum sentence on the charges faced.

Amnesty.—The government granted 3,742 pardons during the year. In January the Ministry of Justice reported that 835 inmates were eligible for pardon and 1,698 inmates would receive sentence reductions. On June 26, President Ravalomanana announced additional pardons and sentence reductions for 4,395 prisoners. Most pardons were reserved for those who had been incarcerated for nonviolent crimes and had served at least 15 years or who were over 70 years of age.

e. Denial of Fair Public Trial.—Although the constitution provides for an independent judiciary, the judiciary was susceptible to executive influence at all levels and at times was corrupt. During the year the government withheld judicial salaries in response to a magistrates' strike (see section 6.b.).

In September a judge was suspended for one year for having solicited a \$8 (17 thousand ariary) bribe from the family of a detained prisoner.

The judiciary is under the Ministry of Justice and has four levels. Courts of first instance hear civil cases and criminal cases carrying limited fines and sentences. The court of appeals includes a criminal court of first instance for cases carrying sentences greater than five years. The supreme court of appeals hears appeals of cases from the court of appeals. The High Constitutional Court reviews the constitutionality of laws, decrees, ordinances, and electoral disputes. The judiciary also includes specialized courts designed to handle matters such as cattle theft.

Trial Procedures.—The law provides defendants with the right to a full defense at every stage of the proceedings, and trials are public. Defendants have the right to be present at their trials, to be informed of the charges against them, to confront witnesses, and to present evidence. The law provides for a presumption of innocence; however, the presumption of innocence was often overlooked. Juries were used only in labor dispute cases. A 2003 Catholic Relief Services (CRS) report stated that the human rights of a person charged with a crime were often violated, and that there was a “large gap between the laws that served to protect the rights of the accused and the implementation of these laws in fact.”

Military courts are reserved for the trial of military personnel and generally follow the procedures of the civil judicial system, except that military officers are included on jury panels. Defendants in military cases have access to an appeals process. A civilian magistrate, usually joined by a panel of military officers, presides over military trials.

The law provides traditional village institutions with the right to protect property and public order. An informal, community-organized judicial system called “*dina*” was used in some rural areas to resolve civil disputes between villagers over such issues as cattle rustling. The law limits *dina* remedies to monetary damages. The *dina* process does not ensure internationally recognized standards of due process; however, there were no reports that *dina* resorted to sentences involving physical force or loss of liberty. *Dina* decisions may be appealed through formal judicial channels to a court of general jurisdiction or to the Office of the Mediator, which investigated and sought redress through formal judicial authorities.

Political Prisoners.—Of the 347 persons originally detained for their role in the 2002 crisis, 234 were released, 75 were pardoned, and 6 died during detention; 32 remained in prison at year’s end. On March 24, General Boba, a former senior gendarmerie official imprisoned for “undermining national security,” died.

On December 22, opposition leader and National Assembly deputy Jean Eugene Voninahitsy was sentenced to two years’ imprisonment and a three thousand dollar (6 million ariary) fine for “trafficking influence”. Observers suspected the conviction was politically motivated, noting that such a charge should have involved BIANCO, which played no role in the case. Voninahitsy, who was in prison at year’s end, announced his intention to appeal.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and while the government generally respected these provisions, security forces sometimes searched the homes and offices of opposition leaders.

On March 22, police searched the Antananarivo residence and office of René Rajaonarivelo, wife of Pierrot Rajaonarivelo, leader of the opposition Alliance for the Rebirth of Madagascar (AREMA), who was living in self-imposed exile abroad. Rajaonarivelo said she did not file a complaint to avoid further harassment.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Although the constitution provides for freedom of speech and of the press, the government limited these rights in practice. There were reports that some government officials pressured the media to curb its critical coverage of alleged government malfeasance and intimidated journalists. Journalists practiced self-censorship.

There were 12 privately-owned major daily newspapers and many other privately-owned national and local news publications that published less frequently. The government owned the only nationwide television and radio networks. There were approximately 229 radio stations, 120 of which were privately owned, and 29 television stations, 12 of which were privately owned. Widespread illiteracy and a poorly developed system for distributing publications printed in the capital limited the effect of print media.

During the year several media associations criticized the government for the 2004 closure of radio stations and for intimidating journalists through lawsuits, imprisonment, fines, and death threats.

In March the court convicted *Gazette de la Grande Ile* publisher Lola Rasoamaharo of libel and sentenced him to two months’ imprisonment and a \$1,550 (3 million ariary) fine. Rasoamaharo had referred to the National Assembly vice president as a “real cretin” in one of his articles. *Gazette* editor James Ramarosaona was sentenced to one month in jail after the magazine published a story accusing a state-owned real estate agency of embezzlement. Rasoamaharo and Ramarosaona were granted amnesty on June 26.

In May the government refused to renew the resident visa of Radio France International correspondent Olivier Peguy, who criticized the Ravalomanana government’s actions during the 2002 political crisis. In June the international NGO Com-

mittee to Protect Journalists wrote an open letter to President Ravalomanana urging the government to reissue Peguy's visa.

Radio Say in Toliara, which the government closed in June 2004 for demonstrating a "lack of respect for the president of the National Assembly" and for "inciting tribal hatred," remained closed at year's end.

On October 13, Tamatave radio stations Radio Feon'i Toamasina, Radio Sky FM, and Radio ny Antsika, all of which the government closed in 2004 after the stations broadcast opposition criticism of the president, were permitted to reopen. The two journalists who were detained after appearing on the radio broadcasts were convicted as accomplices in threatening state security, but were released by the judge presiding over the case.

Many journalists privately admitted practicing self-censorship, particularly at the local level, and there were reports that journalists were threatened with imprisonment, libel suits, or harm to their families if they criticized government or opposition officials.

Government agencies, private companies, and political parties sometimes bribed journalists, who generally received minimum or below minimum wages, to ensure positive coverage of certain events.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The constitution provides for freedom of assembly, but the government at times limited this right. Police forcibly dispersed several student demonstrations during the year.

On April 20, at the University of Antananarivo, police launched tear gas canisters and smoke grenades into a crowd of approximately 300 students protesting proposed educational reforms. Eighteen students were injured, and 16 were arrested. On May 9, student leader John Dorien, who organized the demonstration, was given a three-month suspended sentence and released.

On May 16, eight students at the University of Majunga were arrested as they marched to the administration building to collect their scholarships. On July 12, police launched tear gas canisters into a crowd of students protesting the May 16 arrests.

On May 18, police launched tear gas canisters into a crowd of approximately 100 students protesting the University of Tamatave's failure to disburse scholarship funds. No injuries were reported, but 8 students were arrested for vandalizing vehicles and disturbing public order: 6 were released; and 2 were sentenced to 2 months' imprisonment and a \$4.00 (10 thousand ariary) fine. On September 7, the two were released.

No investigation was conducted into the June 2004 forcible dispersion of reservists or any of the 2003 forcible dispersions of demonstrators. On June 28, the five reservist demonstrators arrested in 2004 were released upon completion of their one-year sentences.

In December the Mayor of Antananarivo announced that all public street demonstrations would be prohibited. Defying the ban, opposition leaders gathered on December 17 to demonstrate. Gangs wielding rocks beat and chased the demonstrators, four of whom were injured.

Freedom of Association.—The constitution provides for the right of association and permits citizens to organize political parties and associations; however, the constitution also explicitly forbids associations that "call into question the unity of the nation, and those that advocate totalitarianism or ethnic, tribal, or religious segregation." There were numerous political parties.

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right in practice; however, the government banned the New Protestant Church in Madagascar (FVPM) during the year.

The law mandates that religious organizations register with the Ministry of Interior. Religious organizations that fail to meet the ministry's registration requirements are free to register as simple associations, which do not have the right to receive gifts or hold religious services. Ministry of Interior officials estimate there are more than one thousand religious organizations in the country operating without official state recognition, including both associations and unregistered organizations.

On September 16, the government banned the FVPM, led by Pastor Randrianatoandro, for illegally occupying churches assigned to the mainstream Reformed Protestant Church of Jesus Christ in Madagascar (FJKM); the ban was implemented in November. The FVPM broke away from the FJKM church in 2002 and took approximately 300 thousand worshippers with it. The FPVM claimed the owners offered the buildings, most of which were wood and thatch huts, to the church. The FPVM challenged the ban in court, which refused to rule on the ban, charging

that only President Ravalomanana could overturn the decision to ban a church. President Ravalomanana was a lay vice president in the FJKM, and some observers charged that the closure of the church was politically motivated.

In 2002 the government had denied the Universal Church of the Kingdom of God (EURD's) application for recognition as a religious association because its leadership consisted entirely of foreign nationals. The government counseled the EURD to elect a local board and reapply, but it never filed a new application. On January 28, the Ministry of Justice issued an order banning all EURD churches nationwide and the expulsion of all foreign pastors; all EURD pastors had left the country by year's end. In August 2004 the Fianarantsoa Prefecture suspended the EURD for inciting public disorder by allegedly burning a copy of the Bible during a ceremony in which "Satan's materials" were burned.

In April the mayor of Antananarivo dispatched police units to break up an EURD service being held in a private residence. The group protested, since the judicial order only called for the closure of EURD churches, not the interdiction of private practice of one's faith. Many EURD followers continued to worship secretly in their homes.

Societal Abuses and Discrimination.—The country has a very small Jewish population; there were no reports of anti-Semitic acts during the year.

For a more detailed discussion, see the 2005 *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 fear of crime restricted travel in some areas, especially at night.

The constitution does not specifically prohibit forced exile; however, the government did not use it. Former President Ratsiraka and other members of his administration remained in self-imposed exile at year's end.

Certain members of the minority Karana community have been denied Malagasy citizenship, are effectively stateless, and can not obtain travel documents (see section 5).

Protection of Refugees.—The law does not include provisions for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, but the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum and cooperated with the UN High Commissioner for Refugees and other humanitarian organizations in assisting the small number of refugees in the country.

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; however, some degree of turmoil accompanied the 3 changes of government that occurred over the last 14 years.

Elections and Political Participation.—The 2002 legislative elections and four follow-up contests held in 2003 resulted in a substantial majority (106 of 160) of deputies elected from the president's TIM party and its alliance partner, the pro-Ravalomanana National Alliance; only 6 of the country's 160 political parties were represented in the National Assembly. International observer teams found the 2002 election process to be transparent and the results credible, despite some organizational problems.

President Marc Ravalomanana was elected in 2001 amid widespread allegations of fraud. Until May 2002, when President Ravalomanana was declared president, former president Didier Ratsiraka and the AREMA party disputed the election results, which led to widespread violence and numerous deaths. President Ravalomanana regained control over the country in July 2002 and Ratsiraka went into exile.

Political and business leaders disproportionately influenced the administration of the country. Political parties coalesced around a single powerful person, usually the president. *Pensee Unique*, a national belief in which dissent was viewed as an attack on societal harmony, made an effective opposition difficult in practice.

On May 20, security forces arrested five opposition members for organizing actions to "destabilize state safety." The members were printing flyers and preparing for an opposition rally, but weapons were found on the premises.

In July a person claiming to be an assistant to Senator Arsene Velo made a death threat against National Assembly Deputy Boniface Zakahely for allegedly slandering the prime minister.

A series of grenade attacks during the year may have been politically motivated (see section 1.c.).

There were 8 women in the 160-member National Assembly. One of the 22 appointed regional administrators was a woman.

There were six Muslims, one Hindu, and two Chinese-Malagasy members in the National Assembly. Chinese Malagasy and Muslims also held civil service positions. Residents of Indo-Pakistani origin were not represented in the government because few had citizenship (see section 5).

Government Corruption and Transparency.—The government continued its efforts to curb official corruption, which remained a serious problem throughout the government. In July 2004 the president announced a national anticorruption strategy that included the establishment of BIANCO, an anticorruption tribunal, and a network of drop boxes for public complaints in each of the country's 111 districts. During the year BIANCO officials visited at least one region of the country every 15 days to publicize BIANCO's mission and to conduct investigations. From January through November, BIANCO received 7,573 complaints. BIANCO investigated 479 cases, which led to the arrest of 197 persons, including a ministry director general, government inspectors, mayors, and members of boards of directors of public enterprises. Seven postal administrators were charged with embezzlement, a former fiscal advisor was charged with corrupt practices, and the city manager of Tulear was charged with mismanagement of city funds. Of the 197 arrested, 71 were placed in preventive detention and 123 were released on bail.

There are no laws that provide for public access to government information. Persons requesting public documents endured a lengthy bureaucratic process, in part due to a lack of standardized record system.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The government permitted visits during the year by the ICRC and NGOs.

The constitution requires the government to create apolitical organizations that promote and protect human rights. However, the governmental National Commission for Human Rights has been inactive since 2002, when its members' terms expired. The government has offered no explanation for the delay in naming replacements.

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

The constitution prohibits all forms of discrimination; however, no specific government institutions were designated to enforce these provisions.

Women.—The law prohibits domestic violence, but domestic violence against women was a problem. Police and legal authorities generally intervened when physical abuse was reported. As many as 50 percent of women experienced domestic abuse, according to media reports.

The law prohibits rape, and penalties for rape ranged from 5 to 10 year's imprisonment. Rapes committed against children and pregnant women were punishable by hard labor. An additional two to five years' imprisonment could be added in the case of assault and battery.

Prostitution was not a crime, but related activities, such as pandering and incitement of minors to debauchery, are criminal. In September President Ravalomanana warned foreigners not to visit for sexual tourism.

There were reports of trafficking in women (see section 5, Trafficking).

Sexual harassment is against the law, but the practice was widespread, particularly in export processing zone (EPZ) factories.

On December 14, an employee of a local automotive company was sentenced to 12 months' imprisonment and a \$1 thousand (2 million ariary) fine for sexual harassment.

Under the law wives have an equal voice in selecting the location of the couple's residence and generally received half the couple's assets if the marriage was dissolved. Widows with children inherit half of joint marital property. In practice these requirements were not always observed. A tradition known as "the customary third," which provided the wife with the right to only one-third of a couple's joint holdings, was occasionally observed.

There was relatively little societal discrimination against women in urban areas, where many women owned or managed businesses and held management positions in private businesses and state-owned companies. In 2003 the Ministry of Labor reported that women owned 30 percent of formal sector companies and 53 percent of informal sector companies. However, women may not work in positions that might endanger their health, safety, and morals.

A number of NGOs focused on the civic education of women and girls and publicized and explained their specific legal protections; however, due to illiteracy, cultural traditions, and a lack of knowledge about their rights, few women lodged official complaints or sought redress when their legal rights were compromised.

Children.—The ministries of health, education, and population are responsible for various aspects of child welfare, but a lack of funding resulted in inadequate services and precluded the compilation of reliable statistics.

The constitution provides for tuition-free public education for all citizen children and makes primary education until age 14 compulsory; however, according to a 2004 World Bank study, only 68 percent of primary school-age children were enrolled (see section 6.d.). In September and October, the government distributed one million sets of school supplies to primary school children nationwide as part of the Education for All program.

In June 2004 the UN Children's Fund (UNICEF) and the government launched a three-year campaign to improve birth registration rates. The country has no uniform birth registration system, and unregistered children were not eligible to attend school or obtain health care services. A 2000 UNICEF study found that approximately 2.5 million children under 17 were not registered.

The legal age for marriage without the requirement of parental authorization is 18 for both boys and girls. The law allows the marriage of girls at 14 and boys at 17 with parental authorization. Courts may approve marriages at even earlier ages with parental authorization for "serious reasons" such as pregnancy.

In rural areas, most marriages were not legal civil unions, at least at the outset. Many couples were united in traditional local ceremonies, often at an early age. Some of these unions were subsequently formalized in civil ceremonies when the couple had sufficient money or needed evidence of marriage for other purposes. In rural areas young girls were pressured to move out and marry soon after puberty to test their ability to become pregnant, a virtual prerequisite for marriage. Parents built one-room "homes" for their daughters to begin "courting," and the daughters entered into informal traditional unions soon thereafter.

In major cities, underage marriage existed but was far less prevalent. Urban girls tended to stay in school longer than their rural counterparts. There were anecdotal reports that parents arranged marriages for their underage daughters with more affluent older men in exchange for money.

Child prostitution was a problem. According to a continuing study conducted by the International Labor Organization's International Program for the Elimination of Child Labor (IPEC), there were approximately 700 to 800 child prostitutes in the city of Nosy Be and more than 2 thousand in Toamasina. Some child prostitutes reported earning several times the average per capita monthly income. Acute poverty and lack of family support were the primary reasons that children engaged in prostitution.

There were reports of child trafficking (see section 5, Trafficking).

Child labor, including forced labor, was a problem (see section 6.d.).

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons, and there were reports of trafficking in women and girls for prostitution between the country and the neighboring islands of Mauritius and Reunion. Children also were trafficked from rural areas to work as prostitutes in urban centers. Traffickers may be prosecuted under provisions of the penal and labor codes that prohibit pedophilia and sexual tourism; however, there were no reports during the year of arrests for trafficking. The Ministry of Justice is responsible for enforcement.

There were several cases of kidnapping, and politicians from the south claimed that children were being sold for up to \$3,200 (16 million ariary) for overseas adoption or forced labor.

During the year the government took several steps to combat trafficking. In May the government passed a new adoption law, in part to protect children from being trafficked under the guise of adoption. The government also continued to construct welcome centers for the victims of trafficking and forced labor (see section 6.d.). The government listed the fight against trafficking as one of its key objectives and created a strategy during the year to address child labor and trafficking in each part of the country.

Persons with Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities, and there was no official discrimination against persons with disabilities in employment, education, or in access to state services. The law broadly defines the rights of persons with disabilities and provides for a national commission and regional subcommissions to promote the rights of persons with disabilities; however, neither a national commission nor the regional sub-commissions had been established by year's end. International NGOs and numerous local associations, including the Collective of Organizations Advocating for Persons with Disabilities, advocated for legislation mandating equal access for persons with disabilities and the establishment of the national commission.

There were 24 educational facilities in the country for persons with disabilities. Unlike in the previous year, there were no reports that students were denied the opportunity to take entrance exams because of their disabilities.

In 2004 the government launched an effort to employ persons with disabilities at national and regional levels of government and ordered that persons with disabilities be provided with medical treatment in public and private medical centers; employment without discrimination; eligibility for civil service vacancies; and education at public schools and vocational training centers, which were responsible for ensuring accessibility. Budget cutbacks resulted in little support for these initiatives during the year. A study conducted during the year by Handicap International found that persons with disabilities seldom had access to health care or received professional training and were often the victims of physical violence, particularly women and girls.

National/Racial/Ethnic Minorities.—The Malagasy, of mixed Malay-Polynesian, African, and Arab descent, were divided into 18 tribes, a term without pejorative overtones in the country. The vast majority of Malagasy spoke a single Malagasy language. None of the 18 tribes constituted a majority. There were also minorities of Indo-Pakistani, Comorian, and Chinese heritage in the country.

A long history of military conquest has resulted in the political dominance of highland ethnic groups of Asian origin, particularly the Merina, over coastal groups of African ancestry. This imbalance has fueled an undercurrent of tension between citizens of highland and coastal descents. Ethnicity, caste, and regional solidarity often were factors in hiring practices.

An economically significant Indo-Pakistani community, commonly referred to as Karana, has been present for over a century. Traditionally engaged in commerce, the Karana number approximately twenty thousand persons. Few hold citizenship, which must be acquired through a native-born Malagasy mother, and many believed they were denied full participation in society and subject to discrimination. In June the president accused certain members of the Karana community of being involved in money laundering and political destabilization. Observers noted that there was no evidence to support the president's charge.

Section 6. Workers Rights

a. The Right of Association.—The law provides that public and private sector workers may establish and join labor unions of their choosing without prior authorization, and workers did so in practice. Essential service workers, including police and military personnel, may not form unions. Unions were required to register with the government, and registration was granted routinely. Ministry of labor statistics indicate that 14 percent of workers in EPZ companies and less than 10 percent of all workers were unionized. Between 70 and 80 percent of the workforce was engaged in agriculture. Despite the existence of several public employees' unions, few public employees were union members.

The law prohibits discrimination by employers against labor organizers, union members, and unions; however, a December 2004 CRS report on working conditions in the EPZs indicated that some employees did not join unions due to fear of reprisal. In the event of antiunion activity, unions or their members may file suit against the employer in civil court.

b. The Right to Organize and Bargain Collectively.—The law provides for unions to conduct their activities without interference, and the government generally respected this right in practice. The law also provides for the right of workers to bargain collectively, but collective bargaining agreements remained rare. The government set civil servant wages and endorsed minimum wages proposed by the private sector (see section 6.e.).

The law provides for the right to strike, including in EPZs, and workers exercised this right during the year. The law calls for workers to exhaust all options including conciliation, mediation, and arbitration before resorting to strikes.

Workers in essential services have a recognized but restricted right to strike. During the year the government withheld judicial salaries in response to a magistrates'

strike that began in February and had not been resolved by year's end; however, the salaries were reinstated. The magistrates were demanding better salaries and retirement benefits. The Ministry of Justice claimed that the magistrates could not strike legally because they were responsible for ensuring public security. Some magistrates had returned to work even though their demands had not been met by year's end.

c. Prohibition of Forced or Compulsory Labor.—The labor code prohibits forced or compulsory labor, including by children, but at times the government did not respect this prohibition, specifically with respect to prison labor. Prisoners and pretrial detainees were hired out to private firms and government officials who provided basic amenities such as food and clothing in return for the prisoners' labor. A 2004 interior ministry study highlighted cases of forced labor among *pousse-pousse* (rickshaw) drivers, petty merchants, and apprentices.

Forced labor by children occurred (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits persons under age 18 from working at night and at sites where there is an imminent danger to health, safety, or morals; however, child labor was a problem. The minimum age for employment was 15 years of age.

Nearly 13 percent of urban children and 36 percent of rural children between the ages of 10 and 14 were intermittently employed, the vast majority on family farms. Children in rural areas generally dropped out of school to help on family farms, and urban children often worked as domestic laborers and servants. In the agricultural sector, children on family subsistence farms may begin work at an even younger age. In cities, many children worked in occupations such as transport of goods by rickshaw, petty trading, and begging. Conditions were often harsh. In 2003 IPEC reported that children as young as eight years of age were being used in mines because they could maneuver in cramped spaces more easily than adults. During the year children as young as three years old were seen using hammers to break rocks in stone quarries, according to media reports.

The government enforced child labor laws in the formal economic sector by means of inspectors from the Ministry of Civil Services; however, enforcement in the much larger informal sector remained a serious problem.

During the year the government continued its efforts to combat forced child labor and trafficking (see section 5.). In February the government increased labor code fines and prison sentences for employers convicted of using child labor. In June 2004 the Ministry of Labor approved a 15-year national plan to combat the worst forms of child labor, citing child prostitution, stone quarry work, salt marsh work, domestic labor, gemstone mining, agriculture, and commercial fishing as areas of particular concern. A national committee made up of high-level government, donor, civil society, and religious group representatives met during the year to raise public awareness and coordinate the national campaign.

During the year the government opened welcome centers in Tamatave and Tulear centers for the victims of trafficking and forced labor. Since July 2004 the welcome centers have rescued more than 120 children employed in the worst forms of child labor, including prostitution, and reintroduced many victims into the educational or vocational training system.

e. Acceptable Conditions of Work.—The Labor Code and its implementing legislation prescribe working conditions and minimum wages, which were enforced by the Ministry of Civil Service, Labor, and Social Laws. The law has separate provisions for agricultural and nonagricultural work.

The monthly minimum wage was \$25.30 (50,600 ariary) and did not provide a decent standard of living for a worker and family, particularly in urban areas. Although most employees knew what the legal minimum wages were, those rates were not always paid. High unemployment and widespread poverty led workers to accept lower wages.

The standard workweek was 40 hours in nonagricultural and service industries and 42½ hours in the agricultural sector. Legislation limited workers to 20 hours of overtime per week, but employees often were required to work until production targets were met. A 2004 CRS report on working conditions in the EPZs indicated that 86 percent of employees surveyed regularly worked more than 40 hours per week. In some cases this overtime was unrecorded and unpaid.

The law sets rules and standards for worker safety and worksite conditions. In December the Ministry of Labor hired 23 new labor inspectors, bringing the total number to 85, which was sufficient to cover only the capital effectively. If violators do not remedy cited violations within the time allowed, they may be sanctioned legally or assessed administrative penalties. CNAPS, the country's equivalent of the Social Security Administration, published reports on workplace conditions, occupa-

tional health hazards, and workplace accident trends. Workers did not have an explicit right to leave a dangerous workplace without jeopardizing their employment.

MALAWI

Malawi is a multiparty democracy with a population of approximately 11.5 million. In May 2004 citizens elected Bingu wa Mutharika of the ruling United Democratic Party (UDF) as president, and the UDF won a majority in the parliament. Constitutional power is shared between the president and the 193 National Assembly members, of whom 187 were elected in 2004. International observers noted substantial shortcomings in the elections, including inequitable access to the state-owned media, the ruling party's use of state resources to campaign, and poor planning and administration by the Malawi Electoral Commission (MEC). On February 5, President Mutharika resigned from the UDF and on April 14 formed the Democratic Progressive Party (DPP). On October 18, the National Assembly adopted impeachment procedures, which were under legal review by the court at year's end. On October 20, an impeachment motion was filed against the president for alleged legal violations, including election irregularities, the appointment of the head of the Malawi Police Service without National Assembly approval, and the use of state funds to establish the DPP. 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.

The government generally respected the human rights of its citizens; however, there were problems in some areas. HIV/AIDS and severe food shortages affecting as many as four million persons exacerbated these problems. The following human rights problems were reported:

- use of excessive force by police
- mob violence
- harsh and life-threatening prison conditions
- arbitrary arrest and detention
- lengthy pretrial detention
- limits on freedom of speech and press
- limits on freedom of assembly
- societal discrimination and violence against women
- child abuse
- trafficking in persons
- forced child labor
- limits on workers' rights

The government took significant steps to punish human rights abusers and investigate corruption. An inspection of a police station in Karonga by the inspector general of the police led to a one-year imprisonment of two policemen who abused detainees. The Mutharika administration continued an ambitious anticorruption campaign, arresting and indicting several high-ranking officials. Leaders increasingly spoke out against exploitative and hazardous child labor practices. Stiff penalties were issued to child traffickers.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no confirmed reports of politically motivated killings by the government or its agents; however, brutal and unlawful police treatment led to the death of two juveniles.

On June 6, a 12-year-old boy arrested on suspicion of stealing money from a fellow bus passenger died in police custody in Ngabu. The boy's mother claimed that he had been tortured and assaulted by police. The Malawi Human Rights Commission (MHRC) found a strong correlation between police treatment of the boy and the decline in the boy's health culminating in his sudden death. The Minister of Home Affairs and Internal Security stated the government condemned the alleged torture. The government promised to conduct an inquiry into the case. A police officer was charged with murder; he was denied bail and awaited trial at year's end. On June 7, police shot and killed a 16-year-old boy at a protest in Ngabu (see section 2.b.). The government promised to conduct an investigation of the incident. There was no further development in the case by year's end.

On August 22, police shot and killed a 28-year-old man in Machinga who was cutting trees for firewood. Deputy Police Public Relations Officer Kelvin Maigwa claimed that police officers fired into the air to disperse a crowd of illegal loggers who threw stones at police. An investigation was ongoing at year's end.

There were no developments in the mysterious 2003 death of Kalonga Stambuli, a former private business advisor to the previous president, who died of poisoning and strangulation. Prior to his death, newspaper reports indicated that Stambuli may have had potentially damaging information about the former president's business activities. A police investigation was ongoing at year's end.

There were no developments in the case of Peter Mussa Gama, who died in police custody in 2003. In 2004 the MHRC publicly called for compensation for Gama's family; however, the government had not compensated the family by year's end.

An investigation was conducted in the May 2004 case in which police reportedly killed a 10-year-old girl during a political demonstration (see section 2.b.). A settlement was reached with the family and no charges were filed.

Mobs sometimes resorted to vigilante justice in beating, stoning, or burning suspected criminals. Following the June death of the 12-year-old boy in police custody, protestors chased a group of policemen in Ngabu and severely beat one of the officers. No arrests were made during the year.

On July 4, a mob beat a mentally-ill man to death in Chitipa after he reportedly killed another man with a pounding stick. An investigation was ongoing at year's end.

On November 16, a man was beaten to death in Kasungu by villagers protesting the appointment of a village headman. Eleven people were arrested, but a trial date had not been set by year's end.

There were no developments in the August 2004 case in which a crowd beat a man to death for reportedly burglarizing a home near Blantyre.

A suspect awaited trial at year's end for the August 2004 beating death of a man caught stealing sugar cane near Kasungu.

Police took no action in any of the 2003 cases of mob killings.

b. Disappearance.—There were no reports of politically motivated disappearances. There were no developments in the 2004 disappearance of Peter Mulamba, a key witness in a high-level corruption case; some reports indicated he committed suicide, while others stated he was out of the country.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were instances of police beating and abusing detainees, and using excessive force in handling criminal suspects. On June 7, the mother of a 12-year-old boy who died in police custody that month (see section 1.a.) alleged that police officers brutally beat her and two of her children during interrogation. She also claimed that police removed her clothing prior to beating her and refused to allow her to go to the hospital for treatment after the assault.

On June 10, two policemen in Karonga were sentenced to one-year imprisonment with hard labor for assaulting and wounding two detainees. The inspector general of the police ordered the police officers' arrests after discovering an injured inmate during a police station inspection. Police violently dispersed demonstrations during the year, which resulted in numerous injuries and at least one death (see section 2.b.).

While higher-ranking officials demonstrated familiarity with standards for the humane treatment of prisoners and publicly condemned prisoner mistreatment, their subordinates continued to employ unacceptable techniques. Police sometimes mistreated suspects due to a mistaken belief that the law required them to present a case (not just charges) to the court within 48 hours of arrest, and police sometimes resorted to beatings to obtain information within the time limit. Lack of financial resources for appropriate equipment, facilities, and training contributed to mistreatment. The MHRC called for the introduction of a compensation fund to assist victims of police abuse and relatives of persons who died in police custody; however, no such fund had been established by year's end.

Prison and Detention Center Conditions.—Prison conditions remained harsh and life threatening. Overcrowding, inadequate nutrition, substandard sanitation, and poor health facilities remained serious problems. The prison system, which was meant to accommodate approximately 7 thousand inmates, held 10,389 prisoners, including approximately 350 juveniles. Inmates complained that they did not receive enough food. Prison inmates were encouraged to grow vegetables and raise livestock. Community service programs were available as alternatives to prison terms. In 2004 an average of 20 inmates died in prison each month, mostly due to HIV/AIDS. There were no available statistics on prison deaths at year's end.

In April 2004 the government began a program with international donors to renovate the country's four major prisons. A new prison was under construction, scheduled to open in early 2006 to replace Mzuzu prison and alleviate prison congestion in the north. Some prisons were upgraded to include improved toilet and shower facilities and plumbing.

Although women were not kept in separate facilities, they were segregated within the prison compound and monitored by female guards. In the four maximum-security prisons, there were separate facilities for juveniles; however, the separation was inadequate in practice, and there were reports of sexual and physical abuse of juvenile prisoners. In the other prisons, juveniles were routinely incarcerated with adults. The law requires pretrial detainees to be held separately from convicted prisoners; however, many prisons could not comply with this law due to lack of space and inadequate facilities.

The Inspectorate of Prisons, domestic nongovernmental organizations (NGOs), and international NGOs were permitted to make visits to monitor prison conditions and to donate basic supplies. The Prison Reform Committee worked in collaboration with the Ministry of Home Affairs and the Inspectorate of Prisons to visit prisons.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, although there were problems in practice.

Role of the Police and Security Apparatus.—The National Police, controlled by the Ministry of Home Affairs and Internal Security, has responsibility in law and in practice for law enforcement and maintenance of order within the country. The police occasionally called on the army for support. The country's police force was inefficient and poorly trained due to inadequate funding.

Corruption was widespread and impunity was a problem. Police continued efforts to improve investigative skills and to introduce the concept of victims' rights through workshops and other training exercises, particularly in the areas of sexual abuse and domestic violence (see section 5). The government continued to seek community involvement in its comprehensive reform of the police. Civil society groups conducted workshops for the police on crowd control measures and management of demonstrations. The country also received foreign assistance to train officials and procure equipment.

Arrest and Detention.—The law provides the accused the right to challenge the legality of detention, have access to legal counsel, and be released on bail or informed of charges by a court of law within 48 hours; however, these rights seldom were respected in practice.

The use of temporary remand warrants to circumvent the 48-hour rule was widespread (see section 1.c.). The government provided legal services to indigent detainees; however, access was often delayed since there were only seven public defenders. Detainees were allowed access to relatives. Bail frequently was granted to reduce prison overcrowding rather than on the merits of an individual's situation. The MHRC received 663 complaints of arbitrary detention; most related to overstay of remand, denial of bail, and unheard appeals.

Police were routinely criticized for failing to act impartially with regard to political demonstrations.

Police arrested some journalists and demonstrators during the year (see sections 2.a and 2.b.). On March 15 President Mutharika ordered the arrest and detention of two journalists and an assistant to the vice president in connection with stories the journalists published about the president (see sections 2.a. and 2.b.). On September 16, police arrested former DPP Vice President Gwanda Chakuamba for criticizing the president (see section 2.a.).

A total of 10,389 persons were incarcerated in the country's prisons, including approximately 350 juveniles and 68 women. Twenty-three percent of the prison population was pretrial detainees.

There were no political detainees during the year.

The Centre for Legal Assistance (CELA) offered free legal assistance to expedite the trials of 200 detainees, with priority given to the sick and young and those subjected to trial delays.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. However, the judicial system was inefficient and handicapped by serious weaknesses, including poor record keeping, a shortage of attorneys and trained personnel, heavy caseloads, and lack of resources.

The law provides for a High Court, a Supreme Court of Appeal, and subordinate magistrate courts. The chief justice is appointed by the president and confirmed by the National Assembly. The president appoints other justices, following a recommendation by the Judicial Service Commission. All justices are appointed to

serve until the age of 65 and may be removed only for reasons of incompetence or misbehavior, as determined by the president and a majority of the National Assembly.

Trial Procedures.—By law, defendants have the right to a public trial but not to a trial by jury; however, in murder cases, the High Court uses a jury of 12 persons from the defendant's home district. Defendants also are entitled to an attorney, the right to present and challenge evidence and witnesses, the right of appeal, and the presumption of innocence.

The judiciary's budgetary and administrative problems effectively denied expeditious trials for most defendants. The Department of Public Prosecutions had eight prosecuting attorneys and four paralegals. The paralegals served as lay prosecutors and prosecuted minor cases in the magistrate courts. Lack of funding and a shortage of attorneys created a backlog, mainly in murder cases.

Political Prisoners.—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; however, at times the government limited this right. There were several cases of intimidation of journalists and government critics through arrests. While none of these cases went to trial, the arrests prompted self-censorship on the part of journalists. Despite tactics used to intimidate journalists, private individuals were generally free to criticize the government without fear of reprisal.

On October 23, the press reported that a man was arrested for making derogatory comments about the president at a gas station in Blantyre. On September 16, police arrested former DPP Vice President Gwanda Chakuamba for statements he made at a political rally after leaving government, in which he allegedly referred to the president as a "brute" and a "drunkard." Chakuamba was charged under the Protected Emblems and Names Act with insulting the president. Capital Radio, which conducted live coverage of the rally, challenged the legality of the act; the case was still pending at year's end.

The independent media was active and expressed a wide variety of views. A broad spectrum of political and ideological opinion was available in the country's newspapers. Ten independent newspapers were available, including two independent dailies, four biweeklies, and four independent weekly papers.

On March 15, journalists Raphael Tenthani and Mabvuto Banda of the independent newspaper *The Nation* were arrested for allegedly violating the Protected Emblems and Names Act. The journalists had written articles alleging that the president had moved out of his residence for fear that ghosts haunted the building. They were charged with publishing information likely to cause public alarm and were released after 24 hours. The charge was later changed to publishing information likely to insult the president. Although Tenthani and Banda were not prosecuted, the president demanded an apology and a retraction of the story. Neither journalist complied with the demand; there was no court action by year's end.

The government enforced several restriction notices on *The Nation*, preventing it from publishing antigovernment stories. In October 2004 the police went to *The Nation* at midnight and ordered it to stop printing an article that included references to a presidential cabinet meeting. The article was published, and *The Nation* was accused of publishing minutes of a secret cabinet meeting.

There were 15 private radio stations with limited coverage and broadcasting only in urban areas. The state-owned Malawi Broadcasting Corporation (MBC) dominated the radio market with its two stations, transmitting in major population centers throughout the country. Government-owned Television Malawi (TVM) was the sole television broadcaster. News coverage and editorial content of MBC and TVM clearly favored the president and his party, while coverage of other political parties was more critical and received less airtime.

In March 2004 the Public Affairs Committee, a civil society group composed of influential religious leaders, initiated legal action against MBC and TVM, challenging their bias toward the ruling party. These challenges generated renewed public interest in the issue of media freedom. The legal action was not pursued after a change in government two months later.

There were no developments in the 2003 assault of several journalists by police at a roadblock.

On October 20, parliament refused the request of an independent radio station to carry a live broadcast of the National Assembly session, stating that the station was not "adequately professional."

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, there were instances in which police limited this right. Authorities at times interfered with opposition party political functions or used violence to disperse crowds.

On March 27, police arrested five UDF politicians for organizing an antigovernment demonstration. They were charged with unlawful assembly, unlawful procession, and conduct likely to cause the breach of peace. The men were released on bail two days later, and the government subsequently dropped the case.

On June 7, police in Ngabu shot and killed a 16-year-old boy while firing live ammunition at unarmed villagers who were protesting the death in police custody of another boy (see section 1.a.). Another person was shot in the leg. A police officer was arrested, and the Minister of Home Affairs and Internal Security, Uladi Mussa, presented a report to the National Assembly on the incident. Opposition leaders described the report as shallow and biased and called for an independent inquiry into the killing. The police officers who were reportedly involved in the incident were transferred to other stations. A trial date had not been set and no independent investigation was conducted at year's end.

On September 16, police arrested former DPP Vice President Gwanda Chakuamba for criticizing the president during a rally in Blantyre (see section 2.a.).

On December 5, a 13-year-old boy and a 20-year-old man were injured at a government food distribution center in Nsanje when a guard opened fire on a crowd to prevent them from forcibly entering the premises. The Centre for Human Rights and Rehabilitation (CHRR) condemned the incident and called for further investigation; a police investigation was ongoing at year's end.

On December 13, police shot and injured three men in Bvumbwe, Thoyo while attempting to disperse a mob armed with knives that attacked a man on suspicion that he had kidnapped a child. Police arrested four officers; no further action was taken by year's end.

There were no developments in the February 2004 case in which two persons were shot when police used live ammunition and tear gas to break up an opposition rally. According to police, the gathering, which coincided with a ruling party rally nearby, was illegal because it lacked proper permits. Opposition leaders maintained they had a court injunction allowing the event to take place. The MHRC urged the inspector general of police to launch an investigation into the violence, but no action was taken by year's end.

There were no developments in the May 2004 case in which police allegedly shot 2 protestors and arrested at least 96 others for rioting over the results of the presidential election. Police reportedly used live ammunition and tear gas to stop looting and vandalism immediately following the announcement of the election results. One man was reportedly beaten to death by a group of worshippers when he sought refuge from the tear gas in a nearby mosque (see section 1.a.). The suspects arrested by police were released on bail within 48 hours of arrest and were awaiting trial at year's end.

There were no developments in the May 2004 case in which a police officer attempting to break up a political demonstration reportedly shot 10-year-old Epiphania Bonjesi. Bonjesi, a bystander, bled to death after being shot in the leg. Eyewitness accounts indicated the bullet was fired by police. In an October 2004 settlement, the government paid compensation to the family.

No action was taken against police who used excessive force to disperse demonstrations in 2003.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. The government required organizations, including political parties, to register with the registrar general in the Ministry of Justice, and registration was routinely granted.

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

There are no separate requirements for the recognition of religions, but religious groups must register with the government. There were no reports that the government refused to register any religious group during the year.

Foreign Christian missionaries experienced occasional delays in renewing employment permits; however, this appeared to be the result of bureaucratic inefficiency rather than a deliberate government policy. Missionaries and charitable workers paid lower fees for employment permits than did other professionals.

Societal Abuses and Discrimination.—Churches continued to be a significant source of political influence, particularly in rural areas. There were generally amicable relations among the various religious communities. There were no reports of societal violence, harassment, or discrimination against members of religious groups. The Jewish community was very small, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

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

The law prohibits the use of forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum; however, there were long delays in the process. By law, the government does not accept refugees for permanent resettlement. The government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) in assisting refugees and asylum seekers.

Although largely peaceful, there were some reports of ethnic clashes among asylum seekers. In 2003 the government signed an agreement with the government of Rwanda and UNHCR to voluntarily repatriate approximately 5,500 refugees who fled following the 1994 genocide in Rwanda. At year's end, only a small number of refugees had participated in the voluntary repatriation.

The government provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol.

In August 2004 the government cooperated with UNHCR in conducting a verification exercise to assess the population of refugees and asylum seekers in the country. UNHCR reported that the country hosted approximately 9,100 refugees (primarily from the Democratic Republic of the Congo, Rwanda, and Burundi) at a refugee center in Dowa; though UNHCR and the government made efforts to relocate refugees to a second camp in Luwani. While no legal framework existed, the government routinely allowed refugees to seek both employment and educational opportunities. UNHCR, NGOs, and the government collaborated to provide education to children in refugee camps.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for citizens 18 years of age and older.

Elections and Political Participation.—International election observers found the May 2004 presidential and parliamentary elections to have substantial shortcomings, including inequitable access to the state-owned media and poor planning by the MEC. The ruling party frequently monopolized resources and used public funds for campaign purposes. Voter turnout was low compared with the two previous presidential elections. With approximately 36 percent of the popular vote, President Bingu wa Mutharika, chosen by former President Muluzi as the UDF candidate, was elected to serve a 5-year term. Election discrepancies prevented parliamentary candidates from taking seats in six constituencies. By-elections for these vacancies took place on January 11. Observers declared them free and fair and better organized than the national elections. The president and vice president hold parliamentary seats but are constitutionally barred from holding other public office.

President Mutharika, Vice President Cassim Chilumpha, and a 30-member cabinet exercised executive authority. The executive exerted considerable influence over the National Assembly which followed a hybrid parliamentary system; a number of cabinet ministers also were members of the National Assembly.

Although the government did not prevent the activities of opposition political parties, the parties alleged that the government used bribery, other inducements, and violence to encourage opposition party divisions. Sporadic minor violence was common between supporters of rival political parties.

There were 27 women in the 193-seat National Assembly, and 5 women in the 30-member cabinet. Women comprised approximately 25 percent of the civil service. There were 2 female justices among the 23 Supreme and High Court justices, and

a woman was appointed as inspector general of police, the highest-level position in law enforcement.

There were three members of minorities in the National Assembly. There was one cabinet member who was a person with disabilities; however, he resigned in October.

Government Corruption and Transparency.—There was widespread public perception of corruption in the executive and legislative branches. President Mutharika continued his reform program, which included an ambitious anticorruption campaign. These activities contributed to waning support for the president and growing political tension. On October 18, the National Assembly adopted impeachment procedures. On October 20, an impeachment motion was adopted charging the president with alleged violations of the law, including election irregularities, the unlawful appointment of the head of the Malawi Police Service, and the use of state funds to establish the DPP. On October 26, the High Court issued an injunction against the procedures until the High Court could determine their constitutionality or until the injunction itself was overturned. There were no further developments at year's end.

The Anti-Corruption Bureau (ACB) launched several investigations and made several indictments of former high-level government officials, including former President Bakili Muluzi. On October 17, the ACB arrested the secretary of the treasury and on October 18, the chief immigration officer on corruption charges. Their trials were pending at year's end.

On April 20, the mayor of Blantyre, John Chikakwiya, was sentenced to three years in prison for theft by a public servant and abuse of public funds. On December 12, the Supreme Court overturned his theft charge, and Chikakwiya was released early for good behavior.

On May 11, former Education Minister Yusuf Mwawa was charged with theft by a public servant and forgery. He was released on bail the same day, and on May 17, the president dismissed Mwawa from the cabinet. Mwawa's trial was pending at year's end.

On November 2, MP Lucius Banda was arrested for forgery. On November 3, MP Maxwell Milanzi was arrested for covering up a previous arrest that would have made him ineligible for parliament. On November 14, former Education Minister Sam Mpasu was arrested on corruption charges. The three men were released on bail November 14; no trial dates were set by year's end.

The law provides for public access to government information, and the government respected this right in practice.

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, training civic educators, advocating changes to existing laws and cultural practices, and investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

Ombudsman Enock Chibwana was mandated by the law to investigate and take legal action against government officials responsible for human rights violations and other abuses. The ombudsman's freedom of action was circumscribed by legislation that requires a warrant and a three-day waiting period to gain access to certain government records. The activities of the ombudsman are subject to judicial review.

The constitutionally mandated MHRC was charged with monitoring, auditing, and promoting human rights provided for under the law and to carry out investigations regarding violations of human rights. The MHRC handled 1,136 complaints of human rights violations in 2004 compared to 587 complaints in 2003.

Nearly half of the complaints related to the rights of prisoners and detainees and included allegations of overstay on remand, denial of bail, and unheard appeals. Other common complaints cited in the MHRC's 2004 report related to unfair labor practices and inadequate access to justice and legal remedies.

The MHRC complained of severe financial and human resource constraints which led to a backlog of cases, delayed production of reports, and failure to expand human rights monitoring.

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

The law specifically provides for equal rights for women, forbids discrimination based on language or culture, and provides for equality and recognition before the law for every citizen. However, in practice the capacity of government institutions to assure equal rights for all citizens was limited.

Women.—Domestic violence, especially wife beating, was common, and women seldom discussed the problem openly. The law does not specifically prohibit domestic violence. The press published frequent accounts of rape and abuse, and the judiciary continued to impose heavier penalties on those convicted of rape, including up to 14-year prison sentences for child rapists. Police regularly investigated cases of rape and sexual assault but did not normally intervene in domestic disputes.

The law does not specifically prohibit female genital mutilation (FGM), and there were anecdotal reports that a few small ethnic groups practiced it.

While prostitution is not illegal per se, living off the wages earned through prostitution, owning a brothel, or forcing another person into prostitution are illegal. In July bar and hotel owners, participating in a 4-day workshop to brainstorm on commercial sex activities and the spread of HIV/AIDS, called on the government to criminalize prostitution. There was no government action during the year.

Under the law, women have the right to full and equal protection by law and may not be discriminated against on the basis of gender or marital status; however, in practice discrimination against women was pervasive, and women did not have opportunities equal to those available to men. Women had significantly lower levels of literacy, education, formal and nontraditional employment opportunities, and access to resources to increase agricultural productivity. The literacy rate among women between the ages of 15 and 45 was 46 percent; male literacy in the same age group was approximately 79 percent.

Women often had less access to legal and financial assistance, and wives often were victims of discriminatory and illegal inheritance practices in which the majority of the estate was taken by the deceased husband's family. Women usually were at a disadvantage in marriage, family, and property rights; however, awareness of women's legal rights continued to increase, and women began to speak out against abuse and discrimination. Households headed by women were represented disproportionately in the lowest quarter of income distribution; 52 percent of the country's full-time farmers were women. Women also had limited access to agricultural extension services, training, and credit. Gender training for agricultural extension workers and the gradual introduction of rural credit programs for women have increased; however, few women participated in the limited formal labor market, where they constituted less than 5 percent of managerial and administrative staff. The National Association of Businesswomen supported working women by making small loans to 300 women who successfully completed business management training.

The law provides for a minimum level of child support, widows' rights, and the rights to maternity leave; however, only individuals who utilized the formal legal system benefited from these legal protections. In some areas of the country, a widow's home and possessions were customarily taken by her in-laws. In a few isolated areas, a widow was sometimes forced to have sex with in-laws as part of a culturally-mandated "sexual cleansing" ritual following the death of her husband. In some cases, she was "inherited" by a brother-in-law or other male relative. Although there were no laws specifically prohibiting these practices, the government and civil society made efforts to abolish them by raising awareness concerning the inherent dangers of such behavior, including the risk of HIV/AIDS transmission.

The government addressed women's concerns through the Ministry of Gender, Child Welfare, and Community Services.

Children.—The law provides for equal treatment of children, and the government continued a high level of spending on children's health and welfare.

The government provided free primary education for all children, although education was not compulsory. Families were responsible for book fees and purchasing uniforms. Students from very poor families had access to a public book fund. Girls, especially in rural areas, have historically been unable to complete even a primary education and therefore were at a serious disadvantage in finding employment.

In January 2004 the University of Malawi released a report on the status of free primary education since its inception in 1994. The report noted that over the past decade, the government increased its education budget annually, but the increases were not proportional to increasing student enrollment. Student dropout rates marginally decreased each year since free education was introduced, but the study concluded that rates remained high. The 2002 Malawi Demographic Household and Education Data Survey's report indicated that gender gaps in primary school attendance were small but that boys were much more likely to attend secondary school than girls. There also were large gaps in achievement levels between girls and boys.

The government took steps to respond to a March 2004 UN Children's Fund (UNICEF) study that showed a number of girls entered into sexual relationships with teachers for money, became pregnant, and subsequently left school. The study also found that many girls left school because of violent behavior by some teachers.

In response, the government expanded legal protection of students subjected to exploitation and inappropriate relationships at school. On November 11, the Lilongwe magistrate court sentenced a male teacher to 6 years imprisonment for defiling a 10-year-old girl in a classroom.

More than half of the country's children lived in poverty, mostly in rural areas. Children in rural households headed by women were among the poorest. Only one-third of children had ready access to safe drinking water, infant mortality was high, and child malnutrition was a serious problem. On June 21, the government launched a National Plan of Action for Orphans and Vulnerable Children to mitigate the impact of poverty and HIV/AIDS on the country's estimated one million orphans.

A few charitable organizations attempted to reduce the number of child beggars in urban areas; however, the problem of street children worsened as the number of orphans whose parents died from HIV/AIDS increased. Extended family members normally cared for such children and other orphans.

The president urged parents and guardians to protect orphans and vulnerable children from abuse. There were societal patterns of child abuse. On April 15, a boy's private parts were cut off in Chinsapo; and on April 21, another boy's ears were cut off in Mchinji. The Ministry of Gender, Child Welfare, and Community Services provided access to medical care and rehabilitation in these cases. Investigations were ongoing at year's end.

The press reported several cases of sexual abuse of children, including arrests for rape and incest. On July 4, a 44-year-old man in Rumphu was sentenced to 14 years' imprisonment for raping his 17-year-old daughter. On October 17, a 46-year-old man in Dedza was sentenced to 8 years' imprisonment for raping his 11-year-old granddaughter.

Abusive practices, including the secret initiation of girls into their future adult roles, were widespread. There was a re-emergence of the Kupimbira practice that allows a poor family to receive a loan in exchange for daughters of any age. FGM was performed in some cases (see section 5, Women).

A local NGO reported an increase in fathers marrying their own daughters in Mangochi District, and the organization urged women to report husbands who sleep with their daughters. The MHRC expressed concern over reports of parents forcing their daughters into marriages for food.

The Ministry of Gender, Child Welfare, and Community Services undertook various activities to enhance protection and support of victims. In March a workshop was held in Mangochi to enable stakeholders to develop strategies to combat child abuse. On November 3, the ministry announced a plan to introduce a child abuse hot line in early 2006. The ministry was in the process of converting its former regional offices into rehabilitation centers.

The Ministry of Gender, Child Welfare, and Community Services was attempting to change a law which allows 15-year-old girls to marry with parental consent.

In 2004 the government worked with UNICEF, international donors, and various NGOs to create and implement a Child Justice Act to ensure juveniles suitable access to the justice system. During the year some components of the act were implemented, including the July establishment of a child justice court and recruitment of juvenile justice officers.

The trafficking of children for sexual purposes was a problem (see section 5, Trafficking), and child prostitution also occurred. The belief that children were unlikely to be HIV positive and the widespread belief that sexual intercourse with virgins can cleanse an individual of sexually transmitted diseases, including HIV/AIDS, contributed to the sexual exploitation of minors.

Child labor, including instances of forced child labor, was a problem (see section 6.d.). The MHRC conducted awareness-raising activities December 5–10 focused on the rights of children.

Trafficking in Persons.—The law does not prohibit trafficking in persons specifically, and trafficking was a problem. Although the extent of human trafficking was undocumented, the government made efforts to combat trafficking and used existing laws to prosecute cases of child trafficking for agricultural labor exploitation. The penal code contains several provisions relating to prostitution and indecency that could be used to prosecute traffickers. Since 2001, seven cases involving trafficking in persons have been prosecuted. On September 24, two citizens and a foreigner were sentenced to seven years' imprisonment with hard labor for kidnapping. The three men were arrested in September while attempting to smuggle five young boys across the border into Zambia to work on tobacco estates. Other convicted child traffickers were required to pay fines.

Although the age of sexual consent is 14, there was no age specified for the protection of minors from sexual exploitation, child prostitution, or child pornography. The

government worked with UNICEF and NGOs to refine child protection laws (see section 5, Children).

The country is a source and transit point for women and children trafficked for sexual purposes locally and to brothels abroad, particularly in South Africa. Victims trafficked to South Africa were typically between 14 and 24 years old, and were recruited with offers of marriage, study, or employment. According to the International Organization for Migration, sex tourists, primarily from Germany, the Netherlands, and the United Kingdom, lured children into sexual relationships with them while in the country. Poverty and low educational levels contributed to such exploitation. Traffickers involved in land border trafficking to South Africa were typically long-distance truck drivers and local businesswomen.

Police and the Ministry of Gender, Child Welfare, and Community Services handled cases brought to the attention of authorities, and provided services, including counseling and reintegration assistance for victims.

Persons with Disabilities.—The law provides for the support of persons with disabilities through greater access to public places, fair opportunities in employment, and full participation in all spheres of society; however, extremely limited resources prevented the government from guaranteeing these rights in practice. Reported violations were taken seriously, and the president publicly declared that students with disabilities should have equal access to education and other government services. The government has not mandated accessibility to buildings and services for persons with disabilities.

There were both public and privately supported schools and training centers that assisted persons with disabilities. There also were several self-supporting businesses run by and for persons with disabilities. A cabinet member with disabilities led the Ministry for Social Development and Persons with Disabilities until his October 9 resignation. During the 2004 elections, some accommodations were made for voters with disabilities. Voters requiring assistance were permitted to bring an assistant into the voting booth with them.

Other Societal Abuses and Discrimination.—Homosexuality is illegal, although there were no prosecutions for homosexuality during the year.

Societal discrimination against persons living with HIV/AIDS was widespread and inhibited access to treatment; many individuals preferred to keep silent about their health rather than seek help and risk being ostracized. On June 1, the industrial relations court in Lilongwe ruled that an employer had discriminated against an HIV positive worker whom he fired after learning of her illness. The employer complied with the court decision to award 8 months' compensation to the worker. The Ministry of Labor and Vocational Training (MOLVT) conducted a public relations program to reduce the stigma associated with having HIV/AIDS.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join trade unions and workers exercised this right in practice; however, union membership was low due to the small percentage of the workforce in the formal sector, the lack of awareness of worker rights and benefits, and a resistance on the part of many employees to join unions. Army personnel and police could not belong to trade unions, but other civil servants were allowed to form unions. Union leaders estimated that 12 percent of the formal sector workforce belonged to unions; however, accurate statistics on the numbers of union members were not available. Employers, labor unions, and the government lacked sufficient knowledge of their legitimate roles in labor relations and disputes, which limited their effectiveness in the implementation and enforcement of the law.

Unions must register with the Registrar of Trade Unions and Employers' Organizations in the MOLVT, and registration was routinely granted. At year's end, 24 unions were registered.

The law prohibits antiunion discrimination by employers and requires that employers reinstate workers dismissed because of union activities. There were no reports of persons who were fired for their membership in unions.

b. The Right to Organize and Bargain Collectively.—Unions have the right to organize and bargain collectively, and the government protected this right in practice. The law requires that at least 20 percent of employees (excluding senior managerial staff) belong to a union before such a union can engage in collective bargaining at the enterprise level, and at least 15 percent union membership for collective bargaining at the sector level. The law provides for the establishment of industrial councils in the absence of collective agreements for sector-level bargaining. Industrial council functions included wage negotiation, dispute resolution, and industry-

specific labor policy development. In practice the law was not effectively implemented due to lack of human and financial resources.

The law allows members of a registered union to strike or go through a formal mediation process overseen by the MOLVT, and workers exercised this right in practice. A strike can only occur after all settlement procedures established in a collective agreement (an understanding, not necessarily signed, reached by both parties to attempt mediation) and conciliation efforts have failed. Laws do not specifically prohibit retaliation against strikers. There was no prohibition on actions against unions that were not registered legally. Members of a registered union in “essential services” have a limited right to strike. Essential services were specified as services whose interruption would endanger the life, health, or personal safety of the whole or part of the population, as determined by the Industrial Relations Court (IRC).

Arbitration rulings were legally enforceable; however, in practice, due to the lack of funding and two-year case backlog, the IRC could not monitor cases and adequately enforce the laws.

At year’s end, 15 firms held licenses to operate under export processing zone (EPZ) status, and 14 were operational. The full range of labor regulations applied to the EPZs; however, union organizers stated they had little access to workers in the EPZs.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, such labor occurred (see sections 5 and 6.d.). According to the ICFTU, bonded labor involving entire families was widespread on tobacco plantations. Tobacco tenants have exclusive arrangements, often unwritten, with the estate owners to sell their crop and to buy inputs such as fertilizer, seed, and often food. These costs, in addition to rent charges, often were greater than the artificially low price received for the tobacco crop, leading to a situation of debt and bonded labor to repay the input and other costs.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law defines children as persons under 16 years of age, and the law prohibits the employment of persons under 14; however, child labor was a problem. The law also prohibits the employment of children under 18 in work that was hazardous, harmful, or interferes with their education. In November 2004 the government published a National Code of Conduct on Child Labor, which defines guiding principles for combatting all forms of child labor.

There was significant child labor on tobacco and tea farms, subsistence farms, and in domestic service, largely as a result of extreme poverty and longstanding cultural traditions. Three child traffickers attempting to smuggle children to Zambia for agricultural labor exploitation were successfully prosecuted and convicted (see section 5, Trafficking).

A local NGO reported that in urban areas, it was common to find young girls working outside of their family as domestic servants, receiving little or no wages. School-age children often worked as vendors. The results of a 2002 MOLVT study on child labor released in 2004 indicated that 72 percent of children were in school and 80 percent of children were working either in or outside of their homes. In addition, approximately 38 percent of children 5 to 14 years of age worked over 7 hours per week.

To strengthen the fight against child labor, the MOLVT, in collaboration with workers and employers, completed its work on a “hazardous work schedule” that was awaiting final review at year’s end. The schedule details all work that is considered hazardous and not suitable for persons below the age of 18.

The MOLVT conducted three refresher courses for its 150 child labor inspectors and its district and community labor committees. In addition, 77 child labor youth activists received training on child labor using the new child labor code of conduct. With support from UNICEF, the Ministry of Gender, Child Welfare and Community Services also trained 240 child protection workers throughout the country. Budgetary constraints hindered minimum work age and child labor law enforcement by police and MOLVT inspectors. The MOLVT youth committees in rural areas monitored and reported on child labor.

e. Acceptable Conditions of Work.—The MOLVT sets separate urban and rural minimum wage rates based on recommendations of the Tripartite Wage Advisory Board (TWAB) composed of representatives of labor, government, and the private sector. However, the TWAB encountered problems due to inefficient organizational structure and inadequate funding, which hindered timely and accurate revision of the wage rate recommendations. The urban minimum wage amounted to approximately \$0.80 (MK 97) per day; in all other areas, it was approximately \$0.60 (MK 74) per day. Minimum wage rates did not provide a decent standard of living for a worker and family. Wage earners often supplemented their incomes through farm-

ing activities. The MOLVT lacked the resources to effectively enforce the minimum wage. However, the minimum wage largely was irrelevant for the great majority of citizens, who earned their livelihood outside the formal wage sector.

The maximum legal workweek was 48 hours, with a mandatory weekly 24-hour rest period. The laws require payment for overtime work and prohibit compulsory overtime. In practice employers frequently violated statutory time restrictions.

The law includes extensive occupational health and safety standards; however, MOLVT enforcement of these standards was erratic. Workers—particularly in industrial jobs—often worked without basic safety clothing and equipment. Workers dismissed for filing complaints about workplace conditions have the right to file a complaint at the labor office or sue the employer for wrongful dismissal. Workers have the right to remove themselves from dangerous work situations without jeopardy to continued employment; however, given the low level of education of most workers and the high level of unemployment, workers were unlikely to exercise this right.

Mechanisms for protecting internationally recognized worker rights were weak. There were serious manpower shortages at the MOLVT; as a result, there were almost no labor standards inspections. The law protects foreign workers in correct legal status. Illegal foreign workers were subject to deportation.

MALI

Mali, with a population of approximately 12 million, is a constitutional democracy that continued to implement a decentralized form of government. The 2002 presidential and legislative elections were judged generally free and fair by international and domestic observers; however, there were some administrative irregularities. While civilian authorities generally maintained effective control of the security forces, there were isolated instances in which elements of the security forces acted independently of government authority.

The government generally respected its citizens' human rights; however, there were problems in some areas. The following human rights problems were reported:

- poor prison conditions
- occasional arbitrary arrest and detention
- lengthy pretrial detention and prolonged trial delays
- domestic violence and discrimination against women
- female genital mutilation (FGM)
- trafficking in children
- hereditary servitude relationships between different ethnic groups
- child labor

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 that the government or its agents committed arbitrary or unlawful killings.

In June a criminal court found two students, involved in a November 2004 confrontation between different student groups which led to three deaths, guilty of inciting violence, and a police officer guilty of using excessive force. Each received a one-year suspended sentence.

There were reports of mob killings during the year. On July 17 and July 26 a mob attacked and killed two thieves for stealing a TV antenna and a motorbike.

b. Disappearance.—There were no reports of politically motivated disappearances. On July 5, unidentified assailants kidnapped a private radio presenter and released him a few hours later (see section 2.a.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however there were occasional reports that police abused civilians. On April 5, a court sentenced a police officer to one month in jail for physically abusing a civilian during questioning.

Prison and Detention Center Conditions.—Overall prison conditions remained poor. Prisons continued to be overcrowded, medical facilities and access were inadequate, and food supplies were insufficient. During the year prison conditions somewhat improved and efforts to conform to UN norms were observable. For example,

the country's largest prison, located in Bamako, the capital, now has a clinic, a library, an adult literacy center, and an artisan workshop.

Men and women were separated in Bamako prisons; however, outside the capital, men and women were held in the same building but in separate cells. In Bamako, juvenile offenders usually were held in the same prison as adult offenders, but they were kept in separate cells. Pretrial detainees were held with convicted prisoners.

The government permitted prison visits by human rights monitors, provided that administrative procedures were followed. Nongovernmental organizations (NGOs) and other monitors were required to submit a request to the prison director who then forwarded it to the Ministry of Justice. Approvals were routinely granted and took up to one week. Several NGOs, including the Malian Association of Human Rights, the Malian Association of Women Lawyers, visited prisoners and worked with women and juvenile prisoners to improve their conditions. According to an NGO, the administrative process hindered the ability of monitors to ascertain if there were human rights violations.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions; however, on occasion, police arrested and detained persons arbitrarily.

Role of the Police and Security Apparatus.—Security forces are composed of the army, air force, gendarmerie, national guard, and police. The army and air force are under the control of the civilian minister of defense. The national guard is administratively under the minister of defense; however, it is effectively under the command and control of the minister of internal security and civil protection. The police and gendarmerie are under the ministry of internal security and civil protection. The police and gendarmes shared responsibility for law enforcement and maintenance of order; the police were in charge of urban areas only. The national police force is organized into various divisions. Each district has a commissioner who reported to the regional director at national headquarters.

The police force was moderately effective but had problems caused by lack of resources and training. Corruption existed within the police force. Some police and gendarmes extorted bribes (see section 2.d.). Impunity was not a problem, and individual police were charged and convicted of abuses. The government provided regular training to police forces. Police, within the limits of their resources, prevented and responded to societal violence.

Arrest and Detention.—Judicial warrants are required for arrest. Normally the complainant delivered the warrant, which stipulated when the person was to appear at the police station. In some cases the police served the warrant, based on a request from an influential relative of the complainant or if they received a bribe. Frequently, in cases where a monetary debt was owed, the arrested person resolved the case at the police precinct, and the police received a portion of the recovered money. The law provides that suspects must be charged or released within 48 hours and that they are entitled to counsel; however, in practice, detainees were not always charged within the 48-hour period. Limited rights of bail or the granting of conditional liberty existed, particularly for minor crimes and civil matters. On occasion, the authorities released defendants on their own recognizance. Detainees had the right to a lawyer of their choice, or a lawyer provided by the state, but administrative backlogs and an insufficient number of lawyers often prevented prompt access. Detainees were allowed prompt access to family members.

There were no political detainees.

Pretrial detention was a problem. Administrative backlogs and an insufficient number of lawyers, judges, and courts often caused lengthy delays in bringing persons to trial. In extreme cases, individuals remained in prison for several years before coming to trial. The Ministry of Justice reported that in 2004, 3,907 out of 4,407 imprisoned persons were awaiting trial.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the executive branch continued to exert influence over the judicial system. The minister of justice appointed and had the power to suspend judges. This ministry also supervised both law enforcement and judicial functions. The president headed the council of magistrates, which oversaw judicial activity. Domestic human rights groups alleged that there were instances of bribery and influence peddling in the courts. On March 18, the minister of justice admonished the Justice Administration, public prosecutors' offices, and judges for ethics violations.

During the year the Council of Magistrates, an institution chaired by the president and including the minister of justice, called before it a deputy public prosecutor, a senior magistrate, and a judge on charges of abuses and mismanagement. All have been temporarily suspended from their duties. These disciplinary actions

were part of the government's continuing campaign against corruption (see section 3).

The Supreme Court has both judicial and administrative powers. The constitution provides for a separate constitutional court that oversees issues of constitutionality and acts as an election arbiter. The constitution also provides for the convening of a High Court of Justice with the power to try senior government officials in cases of treason.

Trial Procedures.—The law provides for the right to a fair trial, but corruption and resource restraints the fairness of some trials. Except in the case of minors, trials are public, and defendants have the right to be present and have an attorney of their choice. Defendants have the right to consult with their attorney, but administrative backlogs and an insufficient number of lawyers often prevented prompt access. Defendants and attorneys have access to government evidence relevant to their cases. Defendants are presumed innocent and have the right to confront witnesses and to appeal decisions to the Supreme Court. Court-appointed attorneys were provided for the indigent without charge. These rights extended to all citizens and all groups.

Village chiefs, in consultation with the elders, decided the majority of disputes in rural areas. If these decisions were challenged in court, only those found to have legal merit were upheld.

Political Prisoners.—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. Police searches were infrequent and required judicial warrants.

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.

Individuals criticized the government publicly and privately, generally without reprisal, and the government did not attempt to impede this criticism.

The independent media were active and expressed a wide variety of views without restriction.

In July unidentified persons kidnapped a private radio talk show host as he left the radio station. He was released a few hours later, after being severely beaten. The government was still investigating, and no charges had been filed in the case at year's end.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice; however, the law prohibits association deemed immoral. Citing this law, on June 17, the governor of the District of Bamako refused to officially recognize a homosexual association.

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

The government required that all public associations, including religious associations, register with the government. The registration process was routine and not burdensome. Traditional indigenous religious groups were not required to register.

Societal Abuses and Discrimination.—In August 2003 a dispute between Tidiani and Wahabbi, two Sunni Muslim communities, over the building of a mosque in the village of Yerere, located in western Mali, resulted in the deaths of ten Wahabbi. There were 96 persons, including 30 women, arrested and charged with assassination, torture, assault and battery, incitement and illegal possession of arms, illegal entry and desecration of bodies. On April 11, the Criminal Court sentenced 5 of the defendants to death, including 1 woman; 10 persons received life sentences; 10 others received sentences of between 2 and 10 years' imprisonment; and 18 women received sentences of between 18 months' and 2 years' imprisonment for complicity. Of the remaining defendants, 41 were given suspended sentences and 12 were released without charge.

There were no reports of anti-Semitic acts. The Jewish population in Mali is unknown but is likely fewer than 50.

For a more detailed discussion, see the *2005 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 re-

spected them in practice. Police routinely stopped and checked both citizens and foreigners to restrict the movement of contraband and to verify vehicle registrations. Some police and gendarmes extorted bribes.

The law specifically prohibits forced exile; the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. A national committee in charge of refugees operated with institutional assistance from the office of the UN High Commissioner for Refugees.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and provided it to approximately 500 persons during the year.

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.

Elections and Political Participation.—In 2002, General Amadou Toumani Toure won the presidential election with more than 60 percent of the vote even without the support of a political party. Independent international and domestic observers judged the elections to be generally free and fair and without evident fraud; however, there were administrative irregularities.

Observers also considered the 2002 legislative elections to be generally free and without evident fraud but noted administrative irregularities. Shifting alliances impacted the composition of the National Assembly.

By year's end no charges had been filed against 20 persons under investigation for possession of stolen voter cards during the 2004 communal elections at year's end.

A total of 15 women held seats in the 147-member National Assembly. There were 5 female cabinet members in the 28-seat cabinet. A total of 5 women served on the 33-member Supreme Court, and 3 women served on the 9-member Constitutional Court.

The National Assembly had 14 members of historically marginalized pastoralist and nomadic ethnic minorities representing the northern and eastern regions of Gao, Timbuktu, and Kidal. The cabinet also had two representatives of the northern regions, the minister of health and the minister of state reforms and institutional relations.

Government Corruption and Transparency.—Corruption continued to hamper the government's development efforts and efforts to improve human rights protection.

On February 21, the criminal court sentenced the former minister of sports to a one-year suspended sentence for forgery and the use of forgery on official government documents. This was the first time the judicial system convicted a former minister.

In February senior officials of the textile company, *Compagnie Malienne pour le Développement des Textiles*, including its former president, were charged with illegally importing cotton from Burkina Faso and Cote d'Ivoire, displacing local cotton, and causing financial losses to the Malian parastatal. No verdict had been reached by year's end.

The Auditor General's Office, an independent agency of the government, monitors the management of public resources and has the power to investigate mismanagement.

The law provides for public access to government information and administrative documents for the press and any citizen, and it was granted in practice. If an information request is refused, the person inquiring can appeal to an administrative court, which must handle the appeal within three months.

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. Some of these groups included the Malian Association for Human Rights, a smaller Malian League of Human Rights, and a local chapter of Amnesty

International. The International Committee for the Red Cross had offices in Bamako, Timbuktu, and Gao.

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

The law prohibits discrimination based on social origin, color, language, sex, or race, and the government generally enforced these provisions effectively. Violence and discrimination against women, FGM, and trafficking in children were problems.

Women.—Domestic violence against women, including spousal abuse, was tolerated and common. Assault in marriage was a crime, but police were reluctant to enforce laws against or intervene in cases of domestic violence. Assault was punishable by prison terms of 1 to 5 years and fines of up to \$1 thousand (500 thousand francs CFA), or if premeditated, up to 10 years' imprisonment. Many women were reluctant to file complaints against their husbands because they were unable to support themselves financially. The Ministry for the Promotion of Women, Children, and the Family produced a guide on violence against women for use by health care providers, police, lawyers and judges. The guide provides definitions of the types of violence and guidelines on how each should be handled. The ministry has also begun surveys to assess the frequency of violence. No results were available at year's end. Action for the Defense and Promotion of Women Rights and Action for the Promotion of Household Maids operate shelters.

The law criminalizes rape, but spousal rape is not illegal. Reports of rape are rare, but most cases go unreported. The law is not effectively enforced due to the rarity of the crime being reported.

FGM was common, especially in rural areas and was performed on girls between the ages of six months to six years. According to domestic NGOs, approximately 95 percent of adult women had undergone FGM. The practice was widespread in most regions and among most ethnic groups, was not subject to class boundaries, and was not religiously based. There were no laws against FGM, but a government decree prohibits FGM in government-funded health centers.

The government continued its two-phased plan aiming at eliminating all forms of FGM by 2008. According to the local human rights organizations fighting FGM, the educational phase (through workshops, videos, and theater) made some impact in cities. The practice of FGM reportedly decreased substantially among children of educated parents. In many instances FGM practitioners agreed to stop the practice in exchange for an other income-generating activity. The National Committee Against Violence Towards Women linked all the NGOs active in FGM.

Prostitution is legal and common in cities. Sex tourism was not known to be a problem. There were no confirmed reports of prostitutes targeted for abuse by local authorities.

The law does not specifically address sexual harassment.

Family law favored men, and women were particularly vulnerable in cases of divorce, child custody, and inheritance rights, as well as in the general protection of civil rights. Women had very limited access to legal services due to their lack of education and information, as well as the prohibitive cost. For example, if a woman wanted a divorce, she had to pay approximately \$60 (30 thousand CFA francs) to start the process, a prohibitive amount for most.

Despite legislation giving women equal property rights, traditional practice and ignorance of the law prevented women, even educated women, from taking full advantage of the law. A community property marriage had to be specified in the marriage contract. In addition if the type of marriage was not specified on the marriage certificate, judges presumed the marriage was polygynous. Traditional practice discriminated against women in inheritance matters. For example, men inherited most of the family wealth.

Women's access to employment and to economic and educational opportunities was limited. Women constituted approximately 15 percent of the labor force. The government, the country's major employer, paid women the same as men for similar work. Women often lived under harsh conditions, especially in rural areas, where they performed difficult farm work and did most of the childrearing. The Ministry of the Promotion of Women, Children and Families was charged with ensuring the legal rights of women.

A second four-year (2004–2008) national plan of action for the promotion of women continued to try to reduce inequalities between men and women and create links between women within the Economic Community of West African States and throughout Africa. Although the government launched the second four-year plan, no analysis or evaluation of the results of the first four-year plan was conducted.

Several women's rights groups, such as the Association of Malian Women Lawyers and the Association of Women in Law and Development, worked during the year to highlight problem areas in the law, mainly the family code, through activities

such as debates, conferences, and women's rights training. Training was targeted to reach magistrates, police officers, and religious and traditional leaders, while providing legal assistance to women.

Children.—The government was committed to providing for children's welfare and rights. Several laws protect children and provide for their welfare, including an ordinance that provides for government positions of "child delegates," in each region whose role is to safeguard the rights and interests of children.

Education was tuition free and, in principle, is open to all, although the majority of students left school by age 12. Students had to provide their own uniforms and supplies to attend public schools. While primary school was compulsory up to the age of 12, only 53.4 percent of children in the 7–12 age group (45.7 percent of girls and 61.4 percent of boys) received a basic education owing to a lack of primary schools, especially in rural areas where 80 percent of the population lived. According to the Ministry of Education, net enrollment of children in junior high school was 18.6 percent, of which 13.8 percent were girls. Girls' enrollment in school is lower than boys' at all levels, partially due to early marriage. Shortages of teachers and materials, poverty, and cultural tendencies to place less emphasis on education of girls also affected the rate of girl's enrollment. Literacy rates among girls remained significantly lower than for boys. A 1998 government estimated report a 12 percent literacy rate for women.

The country had Koranic schools, which taught the Koran, reading, writing, and mathematics. There were 852 registered *Medersas* teaching at the primary school level with 140,194 students, 10 percent of all students attending primary school during the year. While *Medersas* were by statute private, the government supported them by providing textbooks and some teacher training and teaching materials. The Ministry of Education was charged with monitoring and supporting *Medersas*.

The Koranic schools were independent institutions that depended on parents' donations and money the children (known as *garibouts*) received from begging on the streets. They received no government funding and were not part of the government's educational system. There were reports that children who attended Koranic schools spent more time begging on the streets than learning in the classroom. The government believed it was the Islamic leaders' responsibility to modernize and monitor Koranic schools. Koranic schools and teachers have made occasional requests for governmental assistance, but they have not receive such assistance.

Subsidized medical care was provided for children, as well as adults, but was limited in quality and availability. Boys and girls had equal access to medical care.

The Social Services department investigated and intervened in cases of child abuse or neglect. According to local human rights organizations, reported cases were rare; however, statistics were unreliable.

FGM was commonly performed on young girls (see section 5, Women).

Women may legally marry at age 18 and men at age 21. The marriage code allows girls under age 15 to marry with parental consent or special permission from a judge. Women's rights organizations opposed this provision as contradicting international conventions that protect children through the age of 18. Underage marriage was known to be a problem in the regions of Kayes, Sikasso, Timbuktu, and Mopti. Parents contracted marriage for girls as young as age 11 in the Fulani, Minianka, and Soninke ethnic groups even though the practice is illegal.

Local women's rights NGOs such as Action for the Promotion and Development of Women, the Committee for the Defense of Women's Rights, and the Women's and Children's Rights Watch educated local populations about the negative consequences of underage marriage. As a result of these campaigns, girls' school enrollment increased progressively since 2000. The government promoted girls' education and its efforts helped lower the occurrence of underage marriage.

Trafficking in children (see sections 5, Trafficking) and child labor (see section 6.d.) were problems.

Trafficking in Persons.—The law does not prohibit trafficking in persons in general but specifically prohibits trafficking in children; however, there were reports of such trafficking during the year. Child trafficking is punishable by 5 to 20 years' imprisonment. There also are laws that prohibit the contractual use of persons without their consent. Penalties increased if a minor was involved; however, these penalties were not imposed during the year.

On June 9, a criminal court dropped the case against three women arrested in 2004 in the Segou region after determining that their suspected victims were adult prostitutes not protected by the child trafficking law. The case of a Guinean national arrested in 2004 at the Guinean border for trafficking young girls was still pending at year's end. The Criminal Court also handed down a two-year suspended sentence

against a Congolese national and a Malian accomplice involved in the trafficking of six Congolese children.

Though legal protections and measures were in place, parents were reluctant to follow through with charges and cases often languished unresolved within the justice system.

Both the Ministry for the Promotion of Women, Children, and the Family and the Ministry of Labor and Civil Service handled the problem of trafficking. Both ministries, in cooperation with the Ministry of Foreign Affairs and the Ministry of Territorial Administration, developed a program to identify and rehabilitate victims, educate the population, and strengthen the legal system with regard to the movement and trafficking of minors. In 2004 the Ministry for the Promotion of Women, Children, and the Family launched a survey on the sexual exploitation of minors and participated in the creation of community surveillance in the most vulnerable areas of the country. There were no results by year's end.

The country was a source, transit, and destination for trafficking. Most of the trafficking occurred within the country's borders during the year. Children were trafficked to rice fields in the central regions; boys were trafficked to mines in the south; and girls were trafficked for involuntary domestic servitude in Bamako. Victims are generally trafficked into agricultural work, domestic servitude and to a lesser extent into begging, gold mining, and prostitution. The victims were usually from the central regions of the country and not from a specific ethnic group. Women and girls were trafficked from Nigeria for sexual exploitation. Traffickers were mainly from the country.

The government assists with international trafficking investigations and extradition of citizens who are accused of trafficking in other countries, but there were no such cases this year.

The government worked closely with international organizations and NGOs to coordinate the repatriation and reintegration of trafficking victims. Six children were repatriated during the year.

Welcome centers in Mopti, Segou, Sikasso, and Bamako assisted in returning trafficked children to their families. The government provides temporary shelter and protection victims at these centers.

Parents were required to carry travel passes for children, a measure intended to curb child trafficking. There were no reports that these documents hindered legitimate travel during the year.

Persons with Disabilities.—There was no specific law protecting the rights of persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, the government did not discriminate against persons with disabilities.

There is no law mandating accessibility to public buildings. There were no reports of societal discrimination against persons with disabilities. The Ministry of Social Affairs is charged with the protection of the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—Unlike in the previous year, there were no incidents of violence between Arabs and Kountas in the north. Mediation between the two groups was successful and hostilities have decreased. An investigation into the August 2004 clash between Arabs and Kountas in the Gao region was ongoing at year's end.

The 2004 case concerning the killing of a customs officer during a confrontation between two Tuareg communities in Kidal was still pending at year's end.

Other Social Abuses and Discrimination.—In June the governor of Bamako refused to grant official recognition to a gay association (see section 2.b.).

Section 6. Worker Rights

a. The Right of Association.—The law provides for the freedom of workers to form or join unions and protects freedom of association, and workers exercised these rights in practice. Only the military, the gendarmerie, and the national guard were excluded from forming unions. An estimated 95 percent of salaried employees were organized, including teachers, magistrates, health workers, and senior civil servants.

The law does not prohibit antiunion discrimination, but there were no reports of antiunion behavior or activities during the year.

b. The Right to Organize and Bargain Collectively.—The law allows workers to form and join unions of their choice without excessive requirements, and the government respected these rights in practice. Unions other than those representing civil servants and workers in essential services have the right to strike. Workers exercised this right by conducting legal strikes. The law provides for the right to collective bargaining and workers exercised this right freely. Approximately 60 percent

of workers were under such agreements. The growth of independent unions led to more direct bargaining between unions and their employers. Wages and salaries for workers belonging to the National Union of Malian Workers (UNTM) Federation and the Syndicated Confederation of Malian Workers were set by tripartite negotiations between the Ministry of Labor, labor unions, and representatives of the National Council of Employers of the sector to which the wages applied. These negotiations usually set the pattern for unions outside the UNTM. Civil service salary levels were pegged nationally to an index established by the government.

The law provides for the right to strike; however, there were restrictions in some areas. For example, civil servants and workers in state-owned enterprises were required to give two weeks' notice of a planned strike and enter into mediation and negotiations with the employer and a third party, usually the Ministry of Labor and State Reforms. The labor code prohibits retribution against strikers, and the government generally effectively enforced these laws.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.).

The law prohibits the contractual use of persons without their consent; penalties include a fine and hard labor. The penalties increase significantly if a minor, defined as someone less than 15 years of age, was involved.

There were some reports that de facto slavery, long reported to have existed in northern salt mining communities, evolved to wage labor in recent years; however, reliable evidence regarding labor conditions in those remote facilities remained unavailable. Hereditary servitude relationships continued to informally link different ethnic groups, particularly in the north.

d. Prohibition of Child Labor and Minimum Age for Employment.—The Labor Code has specific policies that pertain to child labor; however, these regulations often were ignored in practice and child labor was a problem. The Labor Code permits children between the ages of 12 and 14 to work up to two hours per day during school vacations with parental approval. Children 14 to 16 may work up to 4½ hours per day with the permission of a labor inspector, but not during nights, on Sundays, or on holidays. Children 16 to 18 could work in jobs that were not physically demanding; boys could work up to 8 hours per day and girls up to 6 hours per day.

Child labor predominated in the agricultural, mining, and domestic help sectors and, to a lesser degree, in craft and trade apprenticeships, and cottage industries. Apprenticeship, often in a family member's or a parent's vocation, began at an early age, especially for children unable to attend school.

Laws against unjust compensation, excessive hours, or capricious discharge did not apply to the vast number of children who worked in rural areas, helping with family farms and herds, and those who worked in the informal sector, such as street vendors.

Trafficking in children was a problem (see section 5).

The authorities enforced labor code provisions through inspectors from the Ministry of Labor and State Reforms, who conducted surprise inspections and complaint-based inspections; however, resource limitations restricted the frequency and effectiveness of oversight by the Labor Inspection Service, and the service operated only in the formal sector.

The National Campaign Against Child Labor, led by the International Program for the Elimination of Child Labor (IPEC)-Mali, was responsible for investigating abusive forms of child labor. IPEC relied on labor inspectors appointed by the government in Bamako and in regional labor offices throughout the country. IPEC investigated cases when NGOs or the media provided information that there was abusive child labor. There were no such reports during the year.

e. Acceptable Conditions of Work.—The national minimum wage rate, set during the year, was approximately \$53 (28 thousand CFA francs) per month, which did not provide a decent standard of living for a worker and family. The minimum wage was supplemented by a required package of benefits, including social security and health care. While this total package could provide a minimum standard of living for one person, in practice most wage earners supported large extended families and supplemented their income by subsistence farming or employment in the informal sector. The labor code specifies conditions of employment, including hours, wages, and social security; however, in practice, many employers either ignored or did not comply completely with the regulations.

The legal workweek was 40 hours (45 hours for agricultural employees), with a requirement for a 24-hour rest period. Workers had to be paid overtime for additional hours.

The social security code provides a broad range of legal protections against hazards in the workplace, and workers' groups brought pressure on employers to respect parts of the regulations, particularly those affecting personal hygiene. With high unemployment, however, workers often were reluctant to report violations of occupational safety regulations. The Labor Inspection Service of the Ministry of Labor oversaw these standards but limited enforcement to the modern, formal sector. It was not effective in investigating and enforcing workers' safety and was insufficiently funded for its responsibilities. Workers had the right to remove themselves from dangerous work situations and request an investigation by the Social Security Department, which was responsible for recommending remedial action where deemed necessary; it was not known if any worker had done so.

MAURITANIA

Mauritania is a highly centralized Islamic republic dominated by a strong presidency, with an estimated population of three million. The constitution provides for a civilian government composed of a dominant executive branch, a Senate, and a National Assembly. Former president Maaouiya Ould Sid'Ahmed Taya headed the ruling Republican Social Democrat Party (PRDS) and governed since 1984. Taya was reelected president in 2003. Opposition candidates alleged widespread fraud but chose not to contest the election's results via available legal channels. On August 3, president Taya was deposed in a bloodless coup. Military commanders led by Colonel Ely Ould Mohammed Fal seized power while Taya was abroad. Colonel Fal established the ruling Military Council for Justice and Democracy (MCJD) to run the country. The council dissolved the parliament and appointed a transitional government. Following national consultations with political parties and civil society in October, the junta and transitional government released an election timeline culminating in presidential elections in March 2007, and the junta has announced that it will relinquish power by May 2007. Both the former and transitional governments refused to officially recognize several political parties. Civilian authorities generally maintained control of the security forces until the August 3 military coup, when the military leadership seized control of the security apparatus.

Both the former and transitional government's human rights records remained poor; although there were some improvements in a few areas, serious problems remained. Human rights were negatively impacted by the many problems facing the country, including persistent drought, widespread desertification, flooding, and the effects of the massive locust invasion in 2004. The country suffered from rapid urbanization, extensive unemployment, pervasive poverty, and a burdensome foreign debt. The concentration of much of the country's wealth in the hands of a small elite, as well as a lack of transparency and accountability in certain areas of governance, impeded economic growth and created a permissive environment for human rights abuses. The following human rights problems were reported:

- citizens' inability to change their government
- impunity
- harsh prison conditions
- arbitrary arrest and detention and prolonged pretrial detention
- illegal searches
- executive influence in the judiciary
- restrictions on freedom of speech, the press, and assembly
- limits on freedoms of association and religion
- widespread public perception of governmental corruption and lack of access to government information
- government refusal to officially recognize some nongovernmental organizations (NGOs) and human rights organizations
- discrimination against women and female genital mutilation (FGM)
- trafficking in persons
- ethnic and racial tensions continued and the under representation of largely southern based ethnic groups in political life
- slavery in the form of involuntary servitude persisted, particularly in remote regions of the country
- child labor in the informal sector

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, neither the former nor the transitional government or its agents committed politically motivated killings; however, security forces killed persons during the year.

On June 21, Mamadou Salui Diallo, a 58-year-old Guinean fisherman, died from injuries he sustained while in police custody. His family reported that police beat him to death; however, police claimed he committed suicide by throwing himself into a wall at a Nouakchott police station. Both local and foreign NGOs condemned the incident as an example of a police killing. The former government's internal investigation allegedly supported the police version of the incident.

During the year, police forcibly dispersed demonstrations during the year, which resulted in a death (see section 2.b.).

The trial of the two policemen charged with the 2003 killing of Amadou Kane began in 2004. The trial continued at year's end.

There were no developments in the 2003 drowning of Taleb Boubacar on the Nouakchott beach or in the official investigation into the killing of a teenager in Kaedi.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices there were credible reports that police routinely beat and tortured suspects in custody, which resulted in at least one death (see section 1.a). There were instances of torture in prisons. Alleged police torture techniques included beating, hanging, burning with cigarettes, electric shock, and cutting. According to reports, those who lacked money or influential family or tribal ties were the most likely to be tortured.

Prisoners released under a May amnesty reported repeated beatings, in particular at the Ouad Naga and police school prisons (see section 1.d.). Prisoners cited a March 15 beating when forces, under the command of gendarmerie lieutenant H'Moudy Ould Taya, attacked the group, beat them and stole their possessions and clothing.

On September 29, the *Nouakchott Info*, a local daily newspaper, reported the torture of several Islamists including Ismael Issa, arrested by the former government during the year; Issa remained in prison. The article included a graphic photo of Issa's legs, which bore severe wounds reportedly inflicted by police during various interrogations (see section 1.d.).

Prison and Detention Center Conditions.—Prison conditions remained harsh, although prison administration continued to show improvement. In some prisons, serious overcrowding persisted, and sanitation facilities remained inadequate, reportedly contributing to diseases such as tuberculosis, diarrhea, and dermatological ailments. Medical supplies, mainly provided by an international NGO, remained insufficient in all prisons. Budget allocations to improve prison conditions remained insufficient in all prisons. Physical conditions in Nouakchott's Central Prison improved because of construction projects that began during the year and were ongoing at year's end. Prisoners with high-level connections and with families to bring them food, medicines, and reading material fared better than the less privileged or citizens from other countries.

Guard force management generally enforced regulations against beatings and torture; however, there continued to be credible reports of beatings and torture of detainees at several prisons throughout the country.

The nationwide prison capacity was 800, and, as of December the prison population was an estimated 815. The prison population in Nouakchott was approximately 435 persons, with 394 men, 6 women, and 35 minors; women and minors were held in two separate facilities. During the year the transitional government began construction of a new central prison north of Nouakchott to hold sentenced male prisoners.

The women's prison employed both male and female guards. Children of female prisoners remained with their mothers, or the Ministry of Justice gave temporary custody of the children to another family member. The Noura Foundation, an NGO working in the prisons, provided education and domestic training to the female prisoners. UN Children's Fund, in collaboration with the Catholic NGO CARITAS and the Noura Foundation, provided services such as job training, gardening instruction, and sport activities in the juvenile detention center. Pretrial detainees in all detention facilities were frequently held with convicted prisoners as a result of overcrowding.

The former and transitional governments permitted prison visits by NGOs, diplomats, and international human rights observers. During the year foreign diplomats visited some prisons during the year. The International Committee of the Red Cross (ICRC) had access to prisons and conducted multiple prison visits during the year. The ICRC visited prisoners both before and after the August 3 coup. By year's end their findings were not reported.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, there were frequent reports that the police arbitrarily arrested and detained citizens.

Role of the Police and Security Apparatus.—The National Guard performs police functions throughout the country in areas in which city police are not present. The gendarmerie is a specialized paramilitary group responsible for maintenance of civil order in and outside metropolitan areas.

The police, who are under the control of the Ministry of the Interior, lacked equipment and training, which often weakened attempts to enforce the law. Corruption was believed to be endemic at all levels of the police. Police generally acted with impunity. The former and transitional governments often did not hold security officials accountable or prosecute security officials for abuses.

On August 3, former chief of the national police, Colonel Ely Ould Mohammed Fal, overthrew former president Maaouiya Ould Sid'Ahmed Taya in a bloodless coup (see section 3).

Arrest and Detention.—The application of constitutional safeguards continued to vary widely from case to case. The law requires duly authorized arrest warrants, but they were not commonly used. The law requires that courts review the legality of a person's detention within 48 hours of arrest. The police may extend the period for another 48 hours, and a prosecutor or court can detain persons for up to 30 days in national security cases. Only after the prosecutor submits charges does a suspect have the right to contact an attorney. While one article of the law provides detainees with the right to prompt judicial determination of the charges against them, an older law allows the government to detain persons for up to 30 days without a judicial determination. The former and transitional governments frequently adhered to the older law, the former government particularly during politically turbulent periods. A provision for granting bail exists but was rarely used.

The former government arrested journalists during the year (see section 2.a.).

There were reports of political detainees. From March to July, the former government detained approximately 80 Islamists, including Islamist leaders Cheikh Mohamed El Hacen Ould Dedew and Moctar Ould Mohamed Moussa, who it claimed were tied to terrorism. On May 28, the former government charged 37 with membership in unrecognized groups or for inciting violence and making harmful political statements at mosques. The former government released 14 others, leaving 66 in prison (37 of whom had been charged). A majority of the arrests appeared to be based on alleged political activities rather than religious beliefs. The transitional government released 21 of the 66 Islamists soon after assuming power, and on September 2 released an additional 24 for lack of evidence, leaving 21 in prison. The transitional government stated that it had sufficient evidence to hold the remaining 21, and was making its case against them at year's end. The ICRC visited them numerous times during the year.

According to some neutral observers, police in some regions arrested former criminals and demanded bribes for their release. Pretrial detention was a common practice. Some indicted detainees were released before trial without explanation. There were credible reports of persons remaining in pretrial detention months or in some cases years.

Amnesty.—All prisoners tried in January for attempts to overthrow the Taya government, including 129 connected to the June 2003 coup attempt, were released from prison. The former government released all but 32 after their cases were dismissed or their time was served. In September the transitional government released through a general amnesty the remaining 32 who were convicted of coup plotting and related crimes (see section 1. c.).

e. Denial of Fair Public Trial.—Although the law provides for the independence of the judiciary in practice the executive branch exercised significant influence over the judiciary through its ability to appoint and pressure judges. In addition, poorly educated and poorly trained judges who were susceptible to social, financial, and tribal pressures limited the judicial system's fairness.

Prior to the coup, the former government worked on judicial system reform, which included creating specialized appeals courts and training judges, prosecutors, and police on procedures for applying the country's laws, particularly those laws concerning human rights and trafficking in persons. The transitional government con-

tinued with these reforms. In August the transitional government formed an inter-ministerial committee to propose judicial reforms with an emphasis on establishing magisterial independence. The committee's report, released in November, listed several themes for judicial reform, including ensuring the independence of the judiciary, improving human resources and training for legal officials, and modernizing the justice system. The transitional government made minor staff changes to the judicial structure, including appointing a new minister of justice, Ould Bettah.

There is a single system of courts consistent with modified principles of Shari'a (Islamic law). Departmental, regional, and labor tribunals are the courts of first instance at the lower level. The 53 departmental tribunals, composed of a president and magistrates with traditional Islamic legal training, heard civil cases involving sums less than \$39 (10 thousand ouguiya) and family issues, such as domestic, divorce, and inheritance cases. A total of 13 regional tribunals accepted appeals in commercial and civil matters from the departmental tribunals and heard misdemeanors cases. At the middle level, three courts of appeal, each with seven chambers (civil, commercial, administrative, and penal chambers, as well as criminal, minors, and labor courts) heard appeals from the regional courts and have original jurisdiction for felonies.

The Supreme Court was nominally independent and was headed by a representative appointed to a five-year term by the president. The Supreme Court reviewed decisions and rulings made by the courts of appeal to determine their compliance with the law and procedure. Constitutional review was within the purview of a six-member constitutional council, composed of three members named by the president, two by the national assembly president, and one by the senate president. The Supreme Council of Magistrates, over which the president presided, undertook annual review of judicial decisions; the president and senior vice president of the Supreme Court, the minister of justice, three magistrates, and representatives from the Senate and National Assembly were members of this council. The annual review was intended to determine whether courts applied the law correctly and followed proper procedures. Reviews also served as a basis for evaluating the reform process and reassigning judges based on their qualifications.

Trial Procedures.—The law provides for due process. Defendants have a right to a public trial, but juries are not used. All defendants, regardless of the court or their ability to pay, have the legal right to representation by counsel during the proceedings. If defendants lacked the ability to pay for counsel, the court appointed an attorney from a list prepared by the National Order of Lawyers, which provided a defense free of charge. There is a presumption of innocence and the right to appeal. The foregoing rights generally were observed in practice.

Shari'a provides the legal principles upon which the law and legal procedure are based, and courts did not treat women as the equals of men in all cases (see section 5).

The minimum age for children to be tried was 12. Those between the ages of 12 and 18 were tried and, if convicted, sentenced to the juvenile detention center. There was a special court to hear the cases of children under the age of 18. Children who appeared before the court received more lenient sentences than adults, and extenuating circumstances received greater consideration in juvenile cases.

In January the trial of the 181 men who were charged with either participating in the 2003 coup attempt or with plotting other coups, although reportedly politically influenced and with many irregularities, ended with lighter than expected sentences and no death penalties.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law requires judicial warrants to execute home searches; however, the former government authorities reportedly often ignored this requirement. There were no reports regarding the transitional authorities' adherence to this requirement by year's end.

Former government surveillance of dissidents and the political opposition was believed to continue; however, the extent to which they used informants was unknown. Although there were no reports, the transitional government likely continued this practice.

There were no reports that former or transitional government officials misappropriated land under the land reform system. The transitional government has taken no steps to cure past misappropriations, asserting that this is an issue best dealt with by an elected government. There were no reports of misappropriations during the year.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, but the former and transitional governments continued to restrict these rights through prepublication press censorship by the Ministry of the Interior and domination of broadcast media. In a few cases, media groups were refused access to public forums or censored for criticizing the former government.

All newspapers must register with the Ministry of the Interior; registration was routine. Two daily newspapers, *Horizons* and *Chaab*, were government owned. There were approximately 25 privately owned newspapers that published on a regular basis, in both French and Arabic. NGOs and the privately owned press openly criticized the former government and its leaders, while little criticism was directed at the transitional government. Former antigovernment tracts, newsletters, and petitions circulated widely in Nouakchott and other towns. Newspapers, journals, and privately published books were exempt from all taxes on materials used to produce them.

Radio was the most important medium for reaching the public, and the official media strongly supported the former and transitional governments' policies. Except for the radio broadcast of Radio France International, all broadcast media (radio and television) were government owned and operated. The former government continued to deny, or simply not respond to, private applications to establish domestic radio stations. In December the transitional government allowed RFI to resume radio broadcasts. At year's end the transitional government's position on establishing domestic radio stations was not known.

Using satellite receivers and dish antennas, citizens could receive worldwide television broadcasts.

During the year several journalists were arrested by the former government. On May 19, Mohamed Mahmoud Abou Al Maaly, director of the regular weekly Arabic newspaper, *Akhbar Nouakchott*, was arrested and released two days later. Prior to his arrest, Maaly wrote articles against the former government's crackdown on Islamists, including one article which included an interview with the Islamic leader Jemil Mansour, who at the time was in hiding from the government.

On July 12, police arrested and reportedly abused Mohamed Fadel OULD Ahmed Vall. Prior to his arrest, he had been filming the Thieb Thieb market, a well known black market in Nouakchott. Police released Vall the same day but confiscated his tape.

Two newspaper employees were arrested during the year by the transitional government. On October 19, police arrested journalist Adil Ould Sijad and director Moulay Najem of the regular weekly French-language newspaper, *Points Chauds*, after the paper ran a story on a pornographic film reportedly made in Nouakchott's central prison. Najem was released the following day, but Sijad remained in prison until late November.

The Press Law requires publishers to submit copies of newspapers to the ministries of interior and justice before distributing them. The Ministry of the Interior reviewed all newspaper copy prior to publication and usually authorized sales and distribution within two to three days. The Press Law, however, provides that the minister of the interior can stop publication of material that discredits Islam or threatens national security.

The former Ministry of the Interior censored two editions of independent newspapers during the year. On March 15, the 46th edition of the Arabic-language newspaper, *Al Marsad*, was suspended for no reported reason. On April 6, the 482nd edition of the French-language newspaper *Le Calame* was suspended reportedly for attempting to publish a story regarding a disagreement among high-level military officers.

During the year transitional government censored one newspaper. The August 16 edition of the French-language newspaper *Le Mehariste* was censored, reportedly for attempting to publish a story on slavery. The Ministry of the Interior on two occasions delayed papers for several days but later allowed their publication. The moves appeared less an attempt at censorship than an internal bureaucratic mistake.

The Arab-language private newspaper, *Ar-Raya* closed by the former government in 2003 as a result of its links with Islamist political leader Jemil Mansour, remained closed during the year.

The Arab-language private newspaper, *Al Jawahir*, closed by the former government in 2004 as a result of its alleged financial links to Libya, remained closed during the year.

Opposition parties' access to government radio and television broadcast facilities was extremely limited prior to the August 3 coup. These groups received greater access after the coup but were still subjected to occasional censorship. On October 3, a televised program in which political parties discussed sensitive issues of repa-

triating displaced Afro-Mauritians was censored from broadcast on a public television station.

The former and transitional governments did not restrict access to the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and, while the former government sometimes restricted this right in practice, the transitional government has largely respected it; however, police dispersed at least two pro-Taya demonstrations, a human-rights demonstration, and a sit-in protesting the return of refugees on the pretext they did not have permits.

The law requires that all recognized political parties and NGOs apply to the local prefect for permission to hold large meetings or assemblies, and permission was generally approved. During the months of May through August, police regularly used force, and in some instances tear gas, to disperse demonstrators or crowds that formed in Nouakchott. These crowds often gathered in front of the Central Prison, either to protest the former government's treatment of Islamists, or to request the release of friends and relatives. There were credible reports that persons were injured during these police actions. Zeinabou Mint Youssef, a seven-months' pregnant woman, died on June 2 from injuries received when police forcibly dispersed a crowd of protesters on May 28. Zeinabou and others protested in front of the Central Prison against the arrest of several Islamists opposed to former president Taya. Police and former government officials denied any involvement in her death.

Freedom of Association.—The law provides for freedom of association; however, the former and transitional governments limited this right in practice and circumscribed the efforts of some groups by denying them official recognition. The former government recognized three human rights NGOs but refused to recognize the major political party, The Party of Democratic Convergence (PDC) (see section 4). In October the transitional government also refused recognition to the PDC. In December the transitional government recognized the political party, Democratic Renewal.

All political parties must register with the Ministry of the Interior. Organized political parties (29 under the former government and 30 under the transitional government) and a wide array of NGOs, many of them highly critical of the former government, functioned openly, issued public statements, and chose their own leadership. The former and transitional governments did not grant certain NGOs official standing but did not prevent them from functioning (see section 4). Groups were often refused recognition under laws which prohibited the formation of racially or religiously-based organizations. These laws were used by the former and transitional governments to ban Islamist political parties.

The former and transitional governments continued to ban the political parties Action for Change, Union of Democratic Forces-New Era, An-Nouhoud, and Taliaa (Vanguard).

c. Freedom of Religion.—The constitution establishes the country as an Islamic republic and decrees that Islam is the religion of its citizens and the state; the former and transitional governments limited freedom of religion. Christians in the foreign community and the few Christian citizens were usually permitted to practice their religion openly and freely. In April police told four small West African Protestant groups, which held prayer sessions in members' homes, to stop meeting and encouraged them to relocate their activities to the compound of the Catholic Church, where the Catholic Church and the Evangelical Church held regular meetings.

The former and transitional governments did not register religious groups, although NGOs had to register with the Ministry of the Interior (see section 2.b.). There included humanitarian and development NGOs affiliated with religious groups.

The government arrested numerous suspected Islamists during the year (see section 1.d.).

Although there is no specific legal prohibition against proselytizing by non-Muslims, in practice; the former and transitional governments prohibited proselytizing by non-Muslims through use of the press act, which bans the publication of any material that is against Islam or contradicts or otherwise threatens Islam. There were no reports that the former governments punished persons for violating this provision during the year. In December transitional government authorities arrested a British subject and held him for several days for reportedly distributing a cassette tape with Christian content. The former and transitional governments viewed any attempts by Christians to convert Muslims as undermining society; however, the former and transitional governments also restricted suspected Islamic extremists. There were no known non-Muslim groups engaging in proselytizing, and foreign

Christian NGOs limited their activities to humanitarian and development assistance.

Under the press act, the government may restrict the importation, printing, or public distribution of Bibles or other non-Islamic religious literature, and in practice Bibles were neither printed nor publicly sold in the country. The possession of Bibles and other Christian religious materials in private homes, however, was not illegal, and Bibles and other religious publications were available among the small Christian community.

Societal Abuses and Discrimination.—A very small number of expatriates practiced Judaism. In May citizens conducted several public protests against the former government's continued recognition of Israel, and during the protests made derogatory statements against Jewish persons.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and while the former and transitional governments generally respected them, in some regions, persons lacking identity cards could not travel freely. The former and transitional governments set up roadblocks where gendarmerie, police, or customs officials checked the papers of travelers and often demanded bribes. During the year the former and transitional governments generally maintained fewer roadblocks and reduced the time taken in questioning and conducting vehicle searches. In the weeks following the coup, there was an increased security posture. There were fewer reports of more stringent searches in the southern border areas.

The law does not prohibit forced exile, and the former government used it during the 1989–91 crisis; however, there were no reports that the transitional government used it.

The office of the UN High Commissioner for Refugees (UNHCR) estimated that there were between 15 thousand and 20 thousand refugees from the 1989–91 crisis remaining in Senegal, although refugees have continued to return independently in small numbers and have benefited from small-scale agro-forestry, health, and sanitation projects continued by NGOs and humanitarian workers. Cooperation by local authorities in addressing restitution and citizenship matters varied greatly, depending on individual officials and the returnee's region. Many returnees received their original homes, some property, and all or a portion of their land. Throughout the Chemama or the Senegal River Valley region, returnee communities were reestablishing their agricultural production; however, recovery of land titles remained the primary issue. Timely restoration of identity papers varied, and some of those who returned in 1995 have not yet received identification cards.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, or the 1967 African Union Convention on the Status of Refugees, but the former government has established a system for providing such protection. In practice the former and transitional governments provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum.

The former and transitional governments continued to provide temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and during the year provided it to approximately 400 persons.

The former and transitional governments cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees or asylum seekers. The former and transitional governments also accepted the UNHCR's registration of approximately 600 asylum seekers, mostly from Sierra Leone and Liberia.

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; however, this right was abridged during the year due to the overthrow of former president Taya in a bloodless coup. The former government circumscribed citizens' rights to change their government in practice. The transitional government, following "National Consultations" with over 500 political parties, NGO's, and public figures, released a timeline for a transition to democracy calling for presidential and parliamentary elections no later than March 2007. The timeline was agreed to by the European Union (EU) during formal talks in Brussels in November. At the end of these talks the EU also declared that it was "prepared to give its support to the implementation of" 24 commitments made by the transitional government, including

guaranteeing all Mauritanian citizens the full exercise of their basic rights and freedoms, including the freedoms of speech, movement, and assembly. The transitional government also requested and received assurances for UN elections preparation assistance. In December the UN dispatched an advance elections team to the country. The UN imposed two requirements for electoral assistance: having an independent electoral commission and revised voter' lists. The transitional government complied with both demands. The UN advance team was providing technical advice on budget, organizing the new registration of voters, and assisting on other matters at year's end.

Elections and Political Participation.—In the former government, although civilians occupied all ministerial-level positions, some members of the Military Council that ruled from 1984 to 1992, in addition to former President Taya, remained in positions of power within the executive branch, the National Assembly, the armed forces, and government-owned enterprises.

Former President Taya won the 2003 elections with 67 percent of the vote amid reports of fraud, particularly in the south. The former government did not invite international and local diplomatic observers to observe the voting process, although it did permit one international organization to visit the country during the elections. The leading opposition candidate, Mohamed Haidallah, was arrested the day before the election, released, and rearrested the day after the election. Opposition candidates alleged that the former government conducted a fraudulent election but chose not to contest the election's results via available legal channels, reportedly because the leading opposition candidate's imprisonment immediately following the elections prevented him from taking any legal action.

In 2004 and while in power during 2005, the former government arrested and tried 181 persons, mostly military officers, including Major Saleh Ould Hanenna, the leader of the "Knights of Change," for their involvement in three separate attempts to stage a coup to overthrow former president Taya. The trial resulted in lighter than expected sentences, with no persons sentenced to death. Many of the 181 were released by the former government during the year, after having their cases dismissed or having completed their sentences, and the final 32 were released by the transitional government following the declaration of a general amnesty in September.

The former government reportedly harassed the sons of former president and opposition leader Mohamed Khouna Ould Haidallah on several occasions during the year, allegedly in connection with criminal activity.

On August 3, President Taya, who had ruled the country for 21 years, was deposed in a bloodless coup. Military and other security officers, led by the chief of the national police, Colonel Ely Ould Mohammed Fal, seized power while Taya was aboard. Colonel Fal established the ruling MCJD to run the country, and assumed the position of president of the MCJD. The MCJD dissolved the parliament, suspended parts of the constitution, adopted a constitutional charter allowing it to rule by decree, and appointed a transitional government to replace the Taya government.

In October this transitional government (the MCJD and the council of ministers) held national consultations with over 500 political parties, NGO's, and public figures to debate the roadmap to democracy. Following the consultations, the transitional government released a timeline for a transition to democracy culminating in presidential elections in March 2007.

Until August, when parliament was dissolved, three women held positions in the 81-seat National Assembly and 6 women in the 56-seat Senate. Three of the 15 members of the Executive Bureau of the former ruling PRDS party were women, and a woman heads the Union for Democracy and Progress party, a part of the former ruling coalition. Women occupied some senior former and transitional government positions: three cabinet-level posts including the minister of labor, two secretaries of state, the deputy director of the president's cabinet, and the president's minister-counselor. Women were well represented in the Secretariat of Women's Affairs, including a number from minority ethnic groups. Three of the 26 transitional government ministers are women and 2 of the 15 members of the National Independent Electoral Commission are women.

Prior to the dissolution, the 56-member Senate had 3 Black Moors, 4 Halpulaars, 3 Soninkes, and the remaining 46 were of either White Moor or mixed White Moor/Black Moor heritage. The 81-member National Assembly had 9 Black Moors, 8 Halpulaars, 2 Soninkes, and 2 Wolof. Minorities such as the Black Moors, Halpulaars, Soninkes, and Wolofs were underrepresented in senior former and transitional government positions. Sghair Ould M'Bareck, however, was appointed as the country's first Black Moor prime minister in 2003, and the first Black Moor woman to occupy a ministerial level position was appointed minister of public records in 2003. Of the former government's 22 ministerial posts, 2 incumbents were

Black Moor, 2 were Halpulaar, and 1 was Soninke; the remaining 14 were of either White Moor or mixed White Moor/Black Moor ethnicity (see section 5). The full 26-member cabinet, including secretaries of state, had 2 Black Moors, 3 Halpulaars, and 1 Soninke. Of the transitional government's 26 ministerial posts, 2 incumbents were Haratines, 3 were Pular, and 1 was Soninke. Of the seventeen members of the MCJD, there was 1 Haratine, 1 Pular, and 1 Soninke.

Government Corruption and Transparency.—There was a widespread public perception of corruption in all levels of the former government, and a widespread belief that corruption and poor fiscal management contributed to the country's significant fiscal problems. The former government did not conduct any audits during the year. The transitional government continued to investigate corruption and fiscal mismanagement by the former government at year's end. The public perception of the transitional government's level of corruption could not be determined by year's end; however, it was widely believed that some corruption continued as the transitional government inherited from the former government a patronage system that fostered corruption.

There were no laws permitting public access to government information, by either citizens or noncitizens. Requests for such access were routinely refused, usually without a specific reason being given.

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

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Former and transitional government officials were somewhat cooperative and responsive to their views. The former government officially recognized three NGOs but refused recognition of several others and denied them the ability to deal with government officials, as well as the opportunity to request government assistance.

There were four NGOs concerned with overall human rights issues. The oldest was the Mauritanian League for Human Rights, a government-recognized body with a strong track record of defending former government policies. In May the former government recognized the Mauritanian Association for Human Rights, the International Study and Research Group on Democracy and Economic and Social Development in Africa, and anti-slavery NGO SOS-Esclaves. SOS Esclaves' president, Boubacar Ould Messaoud, had been a longstanding and vocal critic of the former government, and the recognition of this and the other two NGOs was seen as a significant positive step by the former government.

In August 2004 the UN-based Committee for the Elimination of Racial Discrimination reported that slavery, FGM, and racial discrimination remained ongoing problems in the country.

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

The law provides for equality for all citizens regardless of race, national origin, sex, or social status, and prohibits racial or ethnic propaganda; however, the former and transitional governments often favored individuals on the basis of racial and tribal affiliation, social status, and political ties. Societal discrimination against women, trafficking in persons, and racial and ethnic discrimination were problems.

Women.—Human rights monitors and female lawyers reported that domestic violence was rare, particularly among the Moor population. Abuse and domestic violence are illegal; however, the government did not always enforce the law effectively. Penalties included imprisonment, but convictions were very rare. The police and judiciary occasionally intervened in domestic abuse cases, but women in traditional society rarely sought legal redress, relying instead upon family and ethnic group members to resolve domestic disputes.

According to NGO reporting, the incidence of unreported rape was high. Rape, including spousal rape, is illegal; however, the government did not enforce the law effectively. Penalties included imprisonment, but convictions were very rare, and there were no known convictions under this law during the year. A 2000 study by a credible local NGO's found approximately 330 cases of rape in Nouakchott. Of the 330 cases, 140 had been reported as rape to medical staff. The remaining 190 had not been reported as rape, but the NGO concluded that the cases fit the medical profile for violent sexual assault. The study added that 46 percent of these 330 assaults were group assaults.

There were also reports that female slaves were raped and abused during the year. For example, in April there were several international media reports that Sghaira Mint Tesh, a woman who claimed to have grown up as a slave in a rural area of the country, was frequently beaten, raped, and underfed by her master. Tesh

had three children as a result of being raped. Tesh, who left with her children, stated she intended to bring charges against her former master and to pursue the release of her enslaved mother and siblings but had not done so by year's end.

In November the SOS Esclaves reported the cases of Khadama (approximately 14-years old) and her older niece M'barka (approximately 17). According to SOS Esclaves' report, Khadama was given by her mother at a young age to a family that agreed to continue her education and pay her for cleaning work. The family reportedly did neither, instead forcing her to work as a house servant. M'barka was also forced into domestic servitude. Khadama subsequently escaped. M'barka claimed the head of household's nephew raped her, and she became pregnant. M'barka was charged with sexual misconduct for being pregnant and unwed; no action was taken against the nephew. The State Prosecutor's Office investigated the claim of slavery and determined that the girls were not slaves. The trial had not begun by year's end.

Although prostitution is illegal NGO reporting indicated that it was a growing problem in some urban areas, particularly among Afro-Mauritanian and Black Moor women.

Traditional forms of mistreatment of women continued, mostly in isolated rural communities, but these practices appeared to be declining. One form of such mistreatment was the forced feeding of adolescent girls (gavage) prior to marriage, which was practiced only among White Moor tribal groups. While there was no law prohibiting gavage, the former and transitional governments made it a policy to end the practice. Reports during the year indicated that very few women currently subjected to gavage.

FGM was practiced among all ethnic groups, most often on young girls, often on the seventh day after birth and almost always before the age of six months. According to the most recent internationally sponsored study in 2001, three-fourths of all women between the ages of 15 and 49 had been subjected to FGM. Local experts agreed that the least severe form of excision was practiced and not infibulation, the most severe form. The practice of FGM has decreased in the modern urban sector.

There is no law explicitly prohibiting FGM; however, there is a law protecting children, which "prohibits acts that could harm children," and some legal scholars believe this can be interpreted to outlaw FGM; however, it had not yet been so used by year's end. The former and transitional governments and international NGOs continued to coordinate anti-FGM efforts. These efforts focused on eradicating the practice in hospitals, discouraging midwives from practicing FGM, and educating populations. The High Islamic Council of Mauritania, the Islamic Scholar Association, and the National Forum for Women's Rights continued to emphasize the serious health risks of FGM and that FGM was not a religious requirement. The former government conducted intensive media and educational campaigns against FGM during the year. Government hospitals and licensed medical practitioners were barred from performing FGM, and several government agencies worked to prevent others from carrying on this practice. According to several women's rights experts, the campaign against FGM appeared to be changing attitudes towards the practice; however, there were reports during the year that midwives performed FGM in local hospitals in violation of the former government's ban.

Women have legal rights to property and child custody, and, among the more modern and urbanized population, these rights were recognized. By local tradition, a woman's first marriage requires parental consent. In accordance with Shari'a as applied in the country, marriage and divorce do not require the woman's consent, polygyny is allowed, and a woman does not have the right to refuse her husband's wish to marry additional wives. In practice, polygyny was very rare among Moors but was common among other ethnic groups. It was common in Moor society for a woman to obtain at the time of marriage a contractual agreement that stipulated that her husband must agree to end their marriage if he chose an additional wife. Arranged marriages also were increasingly rare, particularly among the Moor population. Women frequently initiated the termination of a marriage, which most often was done by repudiation of husband or wife rather than divorce. The reported rate of divorce among Moors remained 37 percent, with a remarriage rate of 72.5 percent. In July 2004 the National Assembly voted against a proposal to provide women the same rights for a divorce that are available to men.

Women still faced legal discrimination. The testimony of two women was necessary to equal that of one man. The courts grant only half the amount of an indemnity to the family of a woman who has been killed that they award for a man's death. Formulas applied to property distribution varied widely from case to case. In addition the validity of and right to establish prenuptial agreements was not always respected. The Personal Status Code provides a framework for the consistent appli-

cation of secular law and Shari'a-based family law, but the code has yet to be implemented.

Women did not face legal discrimination in areas not addressed specifically by Shari'a. The law provides that men and women should receive equal pay for equal work. While not applied universally in practice, the two largest employers, the civil service and the state mining company, observed this law. In the modern wage sector, women also received family benefits, including three months of maternity leave.

The former and transitional governments sought to open new employment opportunities for women in areas that were traditionally filled by men, such as health care, communications, police, and customs services. Women became more involved in the fishing industry and established several women's fishing cooperatives.

The Secretariat for Women's Affairs worked with many NGOs and cooperatives to improve the status of women. The former and transitional governments, women's groups, and national and international NGOs organized meetings, seminars, and workshops throughout the year to publicize women's rights.

Children.—The law makes special provision for the protection of children's welfare, and there were government programs to care for abandoned children; however, inadequate funding hampered these programs. Education continued to receive the largest share of the national budget at 19 percent. The former and transitional governments relied on foreign donors in such areas as child immunization.

Attendance was required at school for six years, but full implementation of universal primary education was not scheduled to be completed until at least 2007, primarily because of lack of financial resources needed to provide educational facilities and teachers throughout the country, especially in remote areas. The 2002–03 official attendance rate was steady at 92 percent. Education was free through university level. Classes were fully integrated, including boys and girls from all social and ethnic groups. Children of slave families were allowed to attend school. There were no legal restrictions on the education of girls. An estimated 90 percent of school-age girls attended elementary school in 1998 and 1999 compared with 88 percent of boys. At the secondary level, female students constituted 44 percent of those enrolled. Despite these increases, enrollment in the southern and eastern parts of the country remained at a lower level. During the 2002–03 academic year female students made up 21.5 percent of university enrollment, up slightly from 21.2 percent in 2001–02. Female technical student enrollment rose to 31.1 percent in 2002–03 from 30.5 percent in 2001–02. The official literacy rate for women remained at 32 percent, compared with 52 percent for men. Almost all children, regardless of sex or ethnic group, attended Koranic school between the ages of five and seven and gained at least rudimentary skills in reading and writing Arabic.

FGM was commonly performed on young girls (see section 5, Women).

Trafficking in children occurred (see section 5, Trafficking).

Child labor was a problem, particularly in the informal sector (see section 6.d.).

Local NGOs estimated that there were up to 400 street children, largely as a result of poverty and of the urbanization of formerly nomadic families. The former government implemented a program to assist families with street children and to encourage their school attendance.

Trafficking in Persons.—The law prohibits all forms of trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country. The former and transitional governments did not prosecute or sentence anyone under this law during the year. The Ministry of Justice and the Commissariat for Human Rights, Poverty Alleviation, and Integration were responsible for dealing with trafficking.

The country was a source and destination for men, women, and children trafficked for the purpose of forced labor. Multiple NGO reports suggested that forced labor took several forms (see section 6.c.). Slavery-related practices, and possibly slavery itself, persisted in isolated areas of the country where a barter economy still prevailed. Several reports suggested that young girls from remote regions, and possibly from western Mali, worked as unpaid housemaids in some wealthy urban homes. An unknown number of young boys (talibes), nearly all from Pulaar tribes, begged in the streets as part of a "work-study" arrangement with some "marabouts," or religious teachers, for receiving religious instruction. There were unconfirmed reports that a small number of marabouts forced their Talibes to beg for over 12 hours a day and provided them with insufficient food and shelter.

There were no reports that former or transitional governments officials participated in, facilitated, or condoned trafficking.

There was no government assistance or protection services for trafficking victims, but one NGO provided limited assistance to Talibes.

The former and transitional governments took measures to improve border security to combat trafficking in persons. Although no traffickers were apprehended, these measures resulted in arrests for alien smuggling.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in education, employment, or the provision of other state services, and there were no reports of former or transitional governments or societal discrimination against persons with disabilities. Neither government mandated preference in employment or education or public accessibility for persons with disabilities although they did provide some rehabilitation and other assistance for such persons. NGOs have become increasingly active in raising public awareness of issues affecting persons with disabilities. The school for the deaf and the blind in Nouakchott operated 10 classrooms and enrolled 127 students during the year, up from 67 students in 2004. The school lacked sufficient trained staff, having only two permanent and three part-time teachers.

National/Racial/Ethnic Minorities.—Racial and ethnic minorities faced societal discrimination. Racial and cultural tension and discrimination arose from the geographic and cultural divides between Moor and Black African. The Moors were divided among numerous ethno-linguistic tribal and clan groups and further distinguished racially as either White Moor or Black Moor, although it often was difficult to distinguish between the two by skin color. White Moor tribes and clans, many of whom were dark-skinned after centuries of intermarriage with Berbers and sub-Saharan African groups, dominated positions in government and business. The Black Moor subgroup remained politically and economically weaker than the White Moor subgroup. Concentrated in the south, the Halpulaar (the largest non-Moor group), the Wolof, and the Soninke ethnic groups were underrepresented in the military and security sectors.

The constitution designates Arabic as the official language and Arabic, Pulaar, Soninke, and Wolof as the country's national languages; however, successive governments—both civil and military—have pursued various policies of “Arabization” in the schools and in the workplace.

Ethnic rivalry significantly contributed to political divisions and tensions. Some political parties tended to have readily identifiable ethnic bases, although political coalitions among them were increasingly important. Black Moors and Afro-Mauritanians are also underrepresented in mid to high-level public and private sector jobs.

Other Societal Abuses and Discrimination.—There was no evidence of either societal violence or systematic former or transitional governments' discrimination directed at practicing homosexuals. Although Shari'a outlaws homosexuality under certain conditions, secular laws did not. The former and transitional governments did not arrest or prosecute any homosexuals during the year.

There was no evidence of systematic discrimination by either society or government against persons with HIV/AIDS; however, taboos and beliefs associated with the disease caused victims in some areas to face isolation or exclusion.

Section 6. Worker Rights

a. The Right of Association.—The law provides for freedom of association and the right of citizens to join any labor organization, and workers exercised this right in practice. All workers except members of the military and police were free to associate in and establish unions at the local and national levels. To be legally recognized, a union must have the authorization of the public prosecutor who can provisionally suspend a trade union at the request of the Ministry of the Interior if it believes that the union has not complied with the law. The government, however, has the power to decide whether to recognize a trade union (see section 6.b.).

The majority of the labor force was in the informal sector, with most workers engaged in subsistence agriculture and animal husbandry; only 25 percent were employed in regularly paid positions. Nearly 90 percent of industrial and commercial workers, however, were unionized.

Laws provide workers with protection against antiunion discrimination; however, the former government in particular did not generally enforce these laws. Employers or employers may bring labor disputes to three-person labor tribunals administered jointly by the ministries of justice and labor with the participation of union and employer representatives.

b. The Right to Organize and Bargain Collectively.—The law provides that unions may organize workers freely without government or employer interference, and workers exercised this right in practice. General or sector agreements on wages, working conditions, and social and medical benefits were negotiated in tripartite discussion and formalized by government decree. Wages and other benefits could

also be negotiated bilaterally between employer and union, and the results of such negotiations were filed with the Directorate of Labor. Although the directorate has the ability to change the negotiated settlement between labor and business, there were no known cases of such action during the year. There were no export processing zones.

The law provides workers with the right to strike, and workers occasionally exercised this right during the year. On December 12, members of the Mauritanian Doctors' Union, began a 24-hour strike to protest against the arrest of Brahim Ould Hamad, a doctor who was accused of refusing to perform an autopsy on a man who had been shot. Strikes in the private sector must be preceded by submission of a non-conciliation or negotiation-breakdown report. Once a referral is made to arbitrate a dispute, the tripartite arbitration committee may automatically terminate any strike. Some unions believed the new code rendered strikes ineffective by requiring advance notification. Some trade union representatives stated that there was little social dialogue except in response to worker actions in a dispute.

The government can dissolve a union for what it considered an "illegal" or "politically motivated" strike; however, no unions were disbanded during the year.

The former government ratified an updated labor code in 2004 that included significant improvements in health-care entitlements, including the introduction of maternity leave; an improved paced-arbitration system; and a series of laws prohibiting forced labor in any form.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, but the law only applies to relations between employers and workers; there were credible reports such practices occurred (see section 5 and 6.d.). Slavery is illegal although there were still areas where the attitude of master and slave prevailed and slavery was practiced.

The updated labor code, which came into effect in July 2004, includes criminal penalties for human trafficking in all of its recognized forms and includes increased criminal penalties for contracting to benefit from forced labor and for exploiting forced labor as part of an organized criminal network.

In May the International Labor Organization issued a report from their May 2004 country visit to investigate allegations of the persistence of forced labor. The report concluded that the country continued to face challenges in combating forced labor, particularly in the form of forced domestic servitude, but praised the former government's efforts to address the issue. The report cited laws passed in 2003 and 2004 that expanded the definition of forced labor and increased the penalties for those found guilty of profiting from it. The report also acknowledged the former government's efforts to raise public and judicial awareness concerning forced labor. The report made several recommendations, including allowing for an in-depth and independent investigation into forced labor, reinforcing the Ministry of Public Records and Labor, and giving labor inspectors greater resources and autonomy.

Citizens continued to suffer from the country's heritage of slavery. Slavery has been officially abolished. The practice of chattel slavery was once a tradition. Numerous reports suggested that some members of the long-dominant White Moor community continued to expect or desire the servitude of Black Moors. The nature of these reports also suggested that such attitudes impeded the goal of eliminating all remnants of slavery and related practices, a goal to which the former and transitional governments and major opposition parties were committed. Slavery-related practices, and reports of slavery, persisted most strongly in those remote regions of the east and southeast where a barter economy existed, where education levels were generally low, and where a greater need existed for manual labor in work such as herding livestock and tending fields.

A system of officially sanctioned slavery, in which government and society joined to force individuals to serve masters, did not exist. However, there continued to be reports that slavery in the form of forced and involuntary servitude persisted in some remote areas.

SOS-Esclaves publicized several accounts of newly escaped slaves during the year. These reports strongly suggested that slavery and related practices persisted mainly among a few nomadic groups and small villages in remote rural regions.

Voluntary servitude also persisted, with some former slaves and descendants of slaves continuing to work for former masters in exchange for some combination of money, lodging, food, or medical care. The reasons for the persistence of such practices varied widely among the different ethnic groups; however, a barter economy, poverty, and persistent drought provided few economic alternatives for many and left some former slaves and descendants of slaves vulnerable to exploitation by former masters. There were reports that some former slaves in some sedentary communities continued to work for their former masters or others without remuneration to retain access to land they traditionally farmed. Although the law provides for dis-

tribution of land to the landless, including to former slaves, this law has been enforced in only a few cases. Deeply embedded psychological and tribal bonds also made it difficult for many individuals who had generations of forebears who were slaves to break their bonds with former masters or their tribes. Some persons continued to link themselves to former masters because they believed their slave status had been religiously ordained and they feared religious sanction if that bond were broken.

Adult females with children faced greater difficulties and could be compelled to remain in a condition of servitude.

Unlike in the previous year, there were no reports of court cases relating slavery to issues of child custody and inheritance. Human rights NGOs stated that the absence of such cases was attributable to judges' strong preference for out-of-court arbitration to avoid entering slavery-based allegations in the official record.

The Commissariat for Human Rights, Poverty Alleviation, and Integration focused on addressing the consequences of slavery. The former and transitional governments focused on education, literacy, and agrarian reform to remedy the economic consequences of slavery-related practices. When persons who were held against their will filed complaints with the government, their complaints were addressed only after considerable pressure and time. In November the transitional government conducted an investigation involving two alleged slaves (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law provides that children cannot be employed before the age of 14 in the nonagricultural sector or under age 13 in the agricultural sector unless the minister of labor grants an exception due to local circumstances; however, child labor in some parts of the informal sector was common and a significant problem, particularly within poorer inner-city areas. The law states that employed children between the ages of 14 and 16 should receive 70 percent of the minimum wage and that those between the ages of 17 and 18 should receive 90 percent of the minimum wage.

Young children in the countryside were commonly employed in herding, cultivation, fishing, and other significant labor in support of their families' activities. Young children in urban areas often drove donkey carts and delivered water and building materials. In keeping with longstanding tradition, many children served apprenticeships in small industries and in the informal sector. Reporting by some human-rights NGOs, including SOS-Esclaves, strongly suggested that domestic employment, often unpaid, of girls as young as seven in wealthier homes was a growing problem. There was no child labor in the modern industrial sector.

There was a labor inspectorate with the authority to refer violations directly to the appropriate judicial authorities but the eight inspectors lacked the basic resources, such as transport and office equipment, needed to enforce existing child labor and other labor laws.

e. Acceptable Conditions of Work.—The nationally mandated minimum monthly wage for adults was \$78 (21 thousand ouguiya) but was not enforced, and in any case it did not provide a decent standard of living for a worker and family.

The standard, legal, nonagricultural workweek could not exceed either 40 hours or 6 days without overtime compensation, which was paid at rates that were graduated according to the number of supplemental hours worked. Domestic workers and certain other categories could work 56 hours per week. Employees must be given at least one 24-hour period of rest per week. The Labor Directorate of the Ministry of Labor is responsible for enforcement of the labor laws, but in practice inadequate funding limited the effectiveness of the Directorate's enforcement.

The government set health and safety standards, and the Ministry of Labor was responsible for enforcing these standards, but did so inconsistently, due to inadequate funding. In principle workers could remove themselves from hazardous conditions without risking loss of employment, but in practice they could not.

MAURITIUS

The Republic of Mauritius is a constitutional, parliamentary democracy of approximately 1.2 million citizens governed by a prime minister, a council of ministers, and a national assembly. In the July national elections, the Social Alliance, led by Prime Minister Navin Ramgoolan, defeated the incumbent Mauritian Militant Movement (MMM)-Militant Socialist Movement (MSM) coalition in elections judged by all international and local observers to be free and fair. In October the Social Alliance also won municipal elections, reducing the strength of the opposition party. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. The following human rights problems were reported:

- police abuse of suspects and detainees
- prison overcrowding
- violence and discrimination against women
- abuse of children
- child prostitution and child labor
- some restrictions on workers in the Export Processing Zone (EPZ)

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 that the government or its agents committed arbitrary or unlawful killings.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there continued to be reports of police abuses. In September the National Human Rights Commission (NHRC) found three policemen guilty of brutality after they assaulted a suspect after accusing him of being a drug addict. At year's end the Disciplined Forces Service Commission was determining disciplinary action against the police officers. The NHRC received 131 complaints of police abuse, of which 33 were alleged cases of police brutality and 10 related to verbal abuse by officers. The police department Complaints Investigation Bureau (CIB) received 383 complaints, of which 128 were allegations of police brutality or abuse.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, although there were reports of drug abuse, sex commerce, and overcrowding. The Central Prison, which has a capacity of 677, housed more than one thousand prisoners. Food, water, and medical care were available to all prisoners, and sanitation was adequate. In September authorities installed video cameras in the two Youth Rehabilitation Centers to monitor allegations of abuse. In November rioting damaged the cameras in the girl's Youth Rehabilitation Center.

In July according to press reports, rival gangs fought at Grande Riviere Prison, leading to the death of a prisoner and serious injury to two other prisoners. Paramilitary soldiers suppressed the conflict. According to the Commissioner of Prisons, 10 deaths in prison were from natural causes or HIV/AIDS-related complications. On September 11, authorities found a detainee, Ranjit Jeebodh, hanged by his vest; a police investigation continued at year's end.

Authorities separated prisoners deemed to be dangerous to the prison population and placed them in a high-security prison. Behavior of the prisoner rather than a conviction or a sentence determined prisoner placement.

The government permitted prison visits by independent observers including the press, the NHRC, diplomats, and the UN. At least one nongovernmental organization (NGO) was actively involved in rehabilitation of prisoners.

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

Role of the Police and Security Apparatus.—The Mauritius Police Force is a national force headed by a commissioner of police who has authority over all security and police forces, including the Special Mobile Forces, a paramilitary unit that shares responsibility with police for internal security. The NHRC, an independent organization, investigates allegations of police abuses and may report such cases to the Director of Public Prosecutions (DPP), an independent entity.

There were reports of police corruption in the forms of bribery and internal corruption within the force. Complaints could be filed either directly through the CIB or to the Independent Commission against Corruption (ICAC). The CIB received one complaint of bribery or corruption.

Arrest and Detention.—The law requires that all arrested persons must be charged under warrants, read their rights, including the right to remain silent and the right to an attorney, and brought before the local district magistrate within 48 hours; police generally respected these rights. However, in some cases police delayed suspects' access to defense counsels. Minors and those who did not know their rights were more likely not to be provided prompt access. A suspect can be detained for up to a week, after which the issue of bail is brought before a magistrate. Alternatively, with police approval, the accused may be released on bail the same day

as the arrest. Individuals charged with drug trafficking may be detained for up to 36 hours without access to legal counsel or bail.

Since 2003 authorities have detained popular seggae artist Ras Natty Baby (Joseph Nicolas Emilien) on allegations of drug trafficking. Baby was known for critical social commentary in his music. At year's end he had not been charged.

There were no reports of political detainees.

Due to a backlogged court system, authorities occasionally held prisoners in remand up to three or four years before they were tried. Time served in remand did not apply to subsequent sentences. Out of the total prison population of 2,437, 865 were being held on remand.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and it was independent in practice.

The country's judicial system consists of the Supreme Court, which has appellate powers, and a series of lower courts. The Supreme Court has a chief justice and six other judges who also serve on the Court of Criminal Appeal, the Court of Civil Appeal, the Intermediate Court, the Industrial Court, and 10 district courts. Final appeal may be made to the Privy Council in the United Kingdom.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The DPP determines which court hears particular cases based on the severity of the crime and anticipated punishment. All crimes carrying the death penalty or life imprisonment are sent to the Supreme Court, crimes of a medium level of severity are sent to the intermediate courts, and lesser crimes are heard before district courts. Juries are only used in murder trials.

Political Prisoners.—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.

The independent media were active and expressed a wide variety of views without restriction. There were four daily and six weekly newspapers and three private radio stations that offered diverse political viewpoints and expressed partisan views freely. The government owned and regulated the domestic television network, but international networks were available by subscription or via a cable box.

The government has the ability to counter press criticism by using strict libel laws but did not use these measures.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. During the year citizens submitted 593 applications for public gatherings; authorities denied 12 due to nonconformity with the Public Gatherings Act.

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

Religious organizations and faiths present in the country prior to independence, such as the Roman Catholic Church, the Church of England, the Presbyterian Church, the Seventh-day Adventists, Hindus, and Muslims, receive an annual lump-sum payment from the finance ministry based upon the number of adherents, as determined by a 10-year census. The Registrar of Associations registered newer religious organizations (which must have a minimum of seven members) and recognized them as legal entities with tax-free privileges. At least two individuals, missionaries from the Church of the Latter Day Saints, reported being refused work and residency permits.

Societal Abuses and Discrimination.—Underlying tensions between various ethnic and religious groups persisted, but there were no violent confrontations during the year. In October newspapers reported that an unknown person threw a rock through the window of a Muslim primary school.

There were approximately 50 resident Jewish persons, largely expatriates, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

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

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. In practice the government had no need to provide protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not grant refugee status or asylum on the grounds that the country was small, had limited resources, and did not wish to become a haven for large numbers of refugees.

The government cooperated with the office of the UN High Commissioner for Refugees in assisting refugees and asylum seekers by donating money.

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.

Elections and Political Participation.—According to international and local observers, the July national elections were free and fair, with the opposition Social Alliance defeating the ruling MMM–MSM party.

There were 12 women in the 70-seat National Assembly, and there were 2 female ministers in the 20-member cabinet.

Although historically the Hindu majority dominated politics, there were no groups excluded from the political system. Authorities required candidates for the National Assembly to identify themselves with one of four distinct ethnic groupings—Hindu, Muslim, Sino-Mauritian, or general population. For these purposes, “general population” described primarily the Creole and Franco-Mauritian communities. Based on these four categories, the 70-seat National Assembly had 42 Hindus, 19 members of the general population, 8 Muslims, and 1 Sino-Mauritian. Among the 20 members of the cabinet, there were 13 Hindus, 3 Muslims, 3 general population, and 1 Sino-Mauritian.

Government Corruption and Transparency.—The public perceived that corruption existed in the legislative and executive branches. The ICAC and the media were the primary outlets to report acts of corruption. The 2002 Prevention of Corruption Act regulated such complaints.

The law provided for access to government information, and the government generally complied with requests.

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 often cooperative and responsive to their views.

The NHRC is composed of a commissioner, who must be a former judge of the Supreme Court, and three other members. The NHRC is authorized to investigate abuses by any public servant, but it could not investigate complaints that were already the subject of an inquiry by the DPP, the Public Service Commission, or the Disciplined Forces Service Commission. The NHRC had the authority to visit detention centers or prisons and to assess and make recommendations on conditions. The NHRC tried to resolve complaints through conciliation, but if that was unsuccessful, it could forward cases to the DPP (if criminal in nature), to the service commissions, or to the responsible authority in question.

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

The law specifically prohibits discrimination on the basis of race, caste, place of origin, political opinion, color, or sex, and the government generally enforced these provisions. Some societal discrimination occurred.

Women.—The law criminalizes domestic violence and provides the judicial system with power to combat this problem; however, in practice domestic violence against women, particularly spousal abuse, was a major problem. Many victims chose not to prosecute or report their attacker, presumably due to cultural pressures. The law also criminalizes the abandonment of one’s family or pregnant spouse for more than two months, the nonpayment of court-ordered food support, and sexual harassment, although many women remained in abusive situations for fear of losing spousal financial support. A magistrate can order a spouse to pay child support, but there were reports that some spouses stopped working to avoid payment.

The Sex Discrimination Division of the National Human Rights Commission received 59 complaints, of which 12 related to sex discrimination and 18 related to sexual harassment.

The law prohibited rape, including spousal rape, and the police and judicial system enforced the laws.

Prostitution is illegal, but there were reports of prostitution. There were no reports of the country as a destination for sex tourism. However, there were instances of prostitutes targeting tourists in addition to wealthy citizens. In December police uncovered a pornography and prostitution ring in the tourist areas of Trou aux Biches and Grand Baie.

Women played subordinate roles in society, and societal discrimination continued. However, women had equal access to education, employment, and government services. The new government had triple the number of women in parliament and double the number of female ministers than had its predecessor.

The Sex and Discrimination Act affords women broadly defined wage protections, and authorities generally respected the law in practice.

In the agricultural sector, the law protects women from being forced to carry loads above certain weight limits; however, managers determined remuneration by the amount that one was able to carry during a period of time. As a result, women working in agriculture were often paid less than men because they carried loads that weighed less.

Children.—The government placed strong emphasis on the health and welfare of children and displayed a commitment to expand educational opportunities for children. The Ombudsman for Children's Issues ensured that the rights, needs, and interests of children were given full consideration by government, private authorities, individuals, and associations.

During the year the Education Act increased the age of free, universal, and compulsory education from age 12 to age 16. Authorities treated girls and boys equally at the primary, secondary, and post-secondary levels. The majority of children finished secondary education. More than 90 percent of primary students attended school.

The government provided full medical care for both boys and girls.

Under the law, certain acts compromising the health, security, or morality of a child are crimes, although the government was unable to enforce complete compliance with the law. Private voluntary organizations claimed that child abuse was more widespread than was acknowledged publicly. The state-funded National Children's Council and the Ministry of Women's Rights, Family Welfare, and Child Development administered most government programs. Both provided counseling, investigated reports of child abuse, and took remedial action to protect affected children.

Child prostitution was a problem, and the government targeted the practice as a law enforcement and prevention priority. There were reports that some schoolgirls, independent of third party involvement, engaged in prostitution for spending money (see section 5, Trafficking).

Child labor occurred (see section 6.d.).

Trafficking in Persons.—The law prohibits trafficking in persons, and in December the legislature amended the Child Protection Act, increasing the maximum punishment for trafficking to 15 years and expanding the definition of trafficking. There were reports that children were trafficked within the country for child prostitution. There were reports that some schoolgirls worked in conjunction with prostitution rings or family members. The government continued a five-year action plan to combat child prostitution, and the Ministry of Women, Child Development, and Family Welfare ran a hotline for reporting cases of child prostitution. Government officials and agencies in the Ministry of Women's Rights, in the Attorney General's office, and in the police department sought ways to prevent and prosecute child prostitution. NGOs and the government drop-in center provided shelters, counseling, and education for victims of child prostitution.

Persons with Disabilities.—The law prohibits discrimination against people with disabilities, and the Training and Employment of Disabled Persons Board effectively enforced it. However, the law does not require that work sites be accessible to persons with disabilities, making it difficult for persons with disabilities to fill many jobs, and there is no law mandating access to buildings for persons with disabilities. However, the law requires organizations that employ more than 35 persons to set aside at least 3 percent of their positions for persons with disabilities. There were no reports of overt discrimination in employment, education, or in the provision of other state services against persons with disabilities, including mental disabilities.

Section 6. Worker Rights

a. The Right of Association.—The law explicitly protects the right of workers to associate in trade unions, and workers exercised this right in practice. With the exception of police, the Special Mobile Force, and persons in government services who were not public officers, workers were free to form and join unions and to organize in all sectors, including in the EPZ (see section 6.b.). Approximately 350 unions represented 115 thousand workers, and 10 major labor federations served as umbrella organizations for smaller unions.

b. The Right to Organize and Bargain Collectively.—According to the Mauritius Labor Congress (MLC), labor unions are free to conduct their activities without interference, and in practice the government protected this right. The law protects collective bargaining, and workers exercised this right. The National Remuneration Board (NRB), whose chairman was appointed by the minister of labor, set minimum wages for nonmanagerial workers, although most unions negotiated wages higher than those set by the NRB. There were no cases in which unions' activities were prohibited or limited by the government.

The law provides for the right to strike, but the Industrial Relations Act (IRA) requires a 21-day cooling-off period followed by binding arbitration; in practice, this made most strikes illegal. The government has 21 days to respond to any labor dispute and refer it to either the Permanent Arbitrary Tribunal or to the Industrial Relations Commission. If the government does not respond within 21 days, the proposed strike can be carried out. The IRA states that worker participation in an unlawful strike is sufficient grounds for dismissal, but workers may seek remedy in court if they believe that their dismissals are unjustified. The IRA grants the prime minister the prerogative to declare any strike illegal if he considers that it "imperils the economy."

Since foreign workers often did not speak English, French, or Creole, it was difficult for them to demand their rights, which were the same as those of citizen employees. Those who participated in strikes faced the possibility of deportation. Authorities deported illegal foreign workers when they could be identified.

National labor laws cover EPZ workers, although unions had organized only 10 percent of EPZ workers. There are some EPZ-specific labor laws, including the provision for 10 hours per week of mandatory paid overtime at a higher wage than for ordinary working hours. Some employers reportedly established employer-controlled work councils for EPZ workers, effectively blocking union efforts to organize at the enterprise level. Approximately 70 thousand persons worked in the EPZ.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children under age 15 and limits employment by youth between ages 15 and 18. While the government generally respected this law in practice, child labor occurred. According to the law, the penalties for employing a child are a fine of no more than approximately \$72 (2,200 rupees) and a term of imprisonment not to exceed one year.

The law makes education compulsory for children up to the age of 16, reducing instances of child labor. Child labor in homes, on farms, and in shops decreased on the island of Rodrigues, and, although the Child Development Unit actively investigated allegations of child labor there, the labor ministry received no cases.

The Ministry of Labor is responsible for the enforcement of child labor laws and in practice effectively conducted frequent inspections. The ministry employed 45 inspectors to investigate all reports of labor abuses, including those of child labor. There were 19 child labor cases reported within the year.

e. Acceptable Conditions of Work.—The government administratively established minimum wages, which varied according to the sector of employment, and mandated that the minimum wage rise each year based on the inflation rate. The minimum wage for an unskilled worker in the EPZ was approximately \$17 (492 rupees) per week, while the minimum wage for an unskilled factory worker outside the EPZ was approximately \$22 (644 rupees) per week. These wages did not provide a decent standard of living for a worker and family, but the actual market wage for most workers was much higher due to a labor shortage and collective bargaining. In July minimum wages for employees earning less than approximately \$93 (2,700 rupees) increased by approximately \$6 (170 rupees) per month.

The standard legal workweek in the industrial sector was 45 hours. According to the MLC, 10 hours of overtime a week is mandatory at certain textile factories in the EPZ (see section 6.b.) In accordance with the Labor Act, no worker is bound to work more than eight hours a day, six days a week. Those who work more than

their stipulated hours must be remunerated at one and a half times the normal salary. Those who work during their stipulated hours on public holidays are remunerated at double their normal salary. For industrial positions, workers are not permitted to work more than 10 hours a day. If the worker has worked up to or past 10 p.m., the employer cannot require work to resume until at least 11 hours has lapsed. These standards were generally enforced.

The government set health and safety standards, and ministry of labor officials inspected working conditions; however, the small number of inspectors limited the government's enforcement ability. Inspections were announced and unannounced. Voluntary employer compliance with safety regulations helped reduce the number of occupational accidents, with the ministry reporting a general trend downward in the number of industrial accidents over the past 10 years. In 2004 authorities reported 3,431 industrial accidents. From January to April, authorities reported 765 industrial accidents. Workers had the right to remove themselves from dangerous situations without jeopardizing their continued employment, and they did so in practice.

MOZAMBIQUE

The Republic of Mozambique is a constitutional democracy with an estimated population of 19.4 million. President Armando Guebuza was elected in December 2004 in what national and international observers judged to be generally free and fair elections, despite some irregularities. The Front for the Liberation of Mozambique (FRELIMO) has been the ruling political party since independence in 1975, heavily influencing both policymaking and implementation. 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.

Although the government took steps to discipline corrupt police, judges, and ministry officials, serious human rights problems remained. The following human rights abuses were reported:

- police use of excessive force resulting in some unlawful killings and injuries
- extremely harsh and life-threatening prison conditions, leading to several deaths
- arbitrary arrest and detention
- lengthy pretrial detention
- police harassment and arbitrary detention of journalists
- widespread domestic violence and discrimination against women
- abuse and criminal exploitation of children, including child prostitution
- trafficking in women and children
- discrimination against persons with disabilities and HIV/AIDS
- child labor in the informal sector and forced child labor
- poor enforcement of labor legislation

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Although the government or its agents did not commit any political killings during the year, there continued to be reports that security forces committed unlawful killings.

Police excessive use of force and abuse remained a problem. In many cases there was little indication that police considered alternative tactics before resorting to the use of force and firearms. Authorities often failed to take appropriate action to investigate police violence and bring the perpetrators to justice. However, authorities expelled and, in some cases, brought criminal charges against dozens of officers for disciplinary offences.

According to a March press report, members of the police force tortured Joaquim Magaia, the alleged leader of a Maputo carjacking ring, who subsequently died while in police custody. While both the police and the Central Hospital of Maputo stated that Magaia died of malaria, no evidence was presented to confirm the cause of death.

In April police fatally shot a suspected gang member, known only as Dercio, during a search operation in Maputo. In a separate incident in April, police shot and

killed six suspected gang members attempting to escape from the Matsinho administrative post in the central province of Manica. During a November interrogation related to the ongoing investigation, 1 of the 14 accused policemen drew a gun on the state attorney after ballistic evidence contradicted his testimony.

In June press reports accused police of torturing to death two alleged killers, Antonio Tamale and Pedro Chmabo, while in custody in police headquarters in Maputo.

In September police in Maputo reportedly shot a young man in the leg as he fled after refusing to submit to a search. The individual later died at Maputo's central hospital, and the case was under investigation at year's end.

Police authorities had not disclosed whether they were investigating the March 2004 incident in which police in Matola shot and killed two suspected car thieves.

No progress was reported on investigations by provincial authorities into the 2004 fatal shootings of four prisoners being held at the maximum-security jail in Beira, Sofala Province.

There were increased reports of abuse and violence by members of the Community Policing Councils, nonstatutory bodies set up by the Mozambican National Police (PRM) in many districts to prevent crime.

In July the League of Human Rights (LDH), a nongovernmental organization (NGO), reported that three alleged community police members beat a person to death in Quelimane, Zambezia Province. Authorities apprehended the community police members following the incident. LDH also reported incidences of rape and extortion by community police members in the same area. Provincial authorities claimed that the incidents were under investigation. In August community police shot and killed Jose Sungulane in Cheringoma, Sofala Province. Police indicated that Sungulane was shot while fleeing from police custody.

Extremely harsh prison conditions, often leading to serious illness, continued to result in the deaths of persons in custody (see section 1.c.).

The government continued to cooperate with international organizations and donors to clear suspected land mine areas. Between January and November the National De-mining Institute (IND) reported 18 accidents, resulting in 24 injuries and 21 deaths; 8 of the killed reportedly were children. On July 7, four children were killed and three others were injured while playing with unexploded ordnance.

The IND conducted civic education and public awareness campaigns to minimize land mine accidents. In late 2004 IND provided training for 45 teachers from schools in mine-affected areas in 2 districts of Gaza Province. IND reported that the training indirectly reached more than 180 thousand persons, 25 thousand of whom were school-age children.

In October unknown assailants shot and killed the director of the Maputo central prison in the Boane District. Public opinion pieces and media reports considered the shooting a reaction to the director's anticorruption efforts.

Clashes between political party supporters resulted in deaths during the year (see section 3).

Occasional mob violence occurred in both urban and rural areas. In July a mob of approximately 350 former Wackenhut security guards demonstrated outside company headquarters to protest a contract dispute. The crowd later dispersed into roving bands of 15 to 20 persons, physically attacking those who refused to join the walkout.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—While the law prohibits such practices, police continued to commit abuses. During the year human rights advocates and media outlets reported complaints of torture and other cruel treatment, including several instances involving the sexual abuse of women, beatings, prolonged detention, and death threats.

There were several reports of deaths resulting from police torture during the year (see section 1.a.).

LDH investigated an incident in Manica Province where members of the investigative police removed detainees from prison without authorization by prison officials. The prisoners allegedly were tortured and then returned. LDH reported that between January and May, police tortured 18 individuals, injuring some by gunshots. According to LDH, these cases were under investigation at year's end.

There were reports that police abused prostitutes and street children (see section 5).

Prison and Detention Center Conditions.—Prison conditions were extremely harsh and life threatening.

Two National Directorates of Prisons, one under the Ministry of Justice (MOJ) and the other under the Ministry of Interior (MOI), operated prisons in all 10 prov-

inces. As of December 2004 approximately 10 thousand prisoners reportedly were incarcerated in MOJ- and MOI-administered facilities combined. Overcrowding of MOJ prisons remained a serious problem. During the first half of the year, LDH visited 83 prisons, which held 7,660 inmates in facilities designed to hold 5,166 persons. LDH found that 366 detainees had been held beyond the 90-day preventive detention period. Of the facilities visited, 18 offered no medical care or assistance. LDH described 51 facilities as “physically inadequate.” In detention facilities managed by MOI, overcrowding did not appear to be a serious problem. During the first half of the year, LDH visited 102 police station detention facilities around the country under MOI control. In all, 966 detainees were held in facilities designed for a maximum capacity of 1,312. However, 110 detainees were held beyond the maximum police station preventive detention period of 48 hours.

Reports continued that most prisoners received one meal per day, consisting of beans and flour. It was customary for families to bring food to prisoners; however, there continued to be occasional reports that guards demanded bribes in exchange for delivering food to the prisoners. LDH identified five facilities where prisoners relied entirely on outsiders for food: Ilha de Mocambique, Monapo, Macomia, Mocimboa da Praia, and Palma.

There continued to be many reported deaths in prison, the vast majority due to illness. At least one inmate reportedly died from failure to receive timely medical treatment for injuries sustained during a fight at a high-security prison in Maputo. LDH reported that at least two other prisoners died at a high-security prison in Maputo from severe beatings by prison wardens.

In a series of prison visits conducted during the first half of the year, LDH found numerous health problems, mostly due to overcrowding and poor to nonexistent medical care. Malaria, skin diseases, and sexually transmitted diseases were among the most prevalent health problems. Both healthy and sick prisoners regularly were kept in the same cells. The spread of HIV/AIDS was a serious problem for the prison population. The government enlisted the help of the Community of Santo Egidio, an Italian NGO, for a public awareness campaign directed at the prison population. The campaign also included a limited antiretroviral treatment program.

LDH reported a lower number of minors under the age of 16 held with adults from the general prison population than in 2004, the result of action by child rights NGOs.

In MOI facilities, detainees not charged continued to be held with prisoners sentenced for “maximum security” offenses. In MOJ facilities, detainees who had been charged but not tried continued to be held with prisoners sentenced for “moderate security” offenses.

International and domestic human rights groups had access to prisoners, although at the discretion of MOJ and MOI, and such visits took place during the year. LDH noted a significant improvement compared with the last two years in access to MOJ and MOI facilities.

d. Arbitrary Arrest or Detention.—While the law prohibits arbitrary arrest and detention, in actuality both practices continued to occur.

Role of the Police and Security Apparatus.—Forces under the MOI, including the Criminal Investigation Police (PIC), the PRM, and the Rapid Intervention Force are responsible for internal security. An additional security body, the State Information and Security Service, reported directly to the president. The armed forces (FADM) are responsible for external security, but in practice hold domestic security responsibilities as well.

The police continued to be poorly paid, despite an increase in pay during the year. Trainee-level officers reportedly received approximately \$80 (2 million meticais) a month, while those at higher rank received approximately \$100 (2.5 million meticais) a month. Corruption and extortion by police were widespread. Authorities often used violence and arbitrary detention as a means of intimidation to keep persons from reporting abuses. Police impunity remained a problem. The PIC was criticized for being ineffective, and according to press reports, at times PIC officers may have been transferred to prevent them from making real progress on some investigations.

Police regularly detained persons for spurious reasons and demanded identification documents solely to extort payments. Many crime victims reportedly avoided police assistance because of expected demands for bribes and a lack of confidence that the police would help. A government-sponsored survey released in August ranked the police force at the top of the list of dishonest public institutions.

During the year the MOI reported that approximately 750 police officers were disciplined, including 260 expulsions. Professional training for police officers continued during the year; police officers formally trained at the police academy took over com-

mand of several police stations in Maputo from less trained officers. In November President Guebuza addressed 1,185 police academy graduates, stressing accountability, good behavior, and respect for laws and citizens.

A strategic plan of action and modernization for the PRM covering the years 2003 to 2012 continued. Seven of its nine “guiding principles” reflected respect for human rights. While the plan acknowledged the problem of abuse of police powers, it made no specific provision for ensuring greater accountability for such abuses.

Arrest and Detention.—Although the law provides that persons must be arrested openly with warrants issued by a judge or prosecutor (except persons caught in the act of committing a crime), police continued arbitrarily to arrest and detain citizens. By law the maximum length of investigative detention without a warrant is 48 hours, during which time a detainee has the right to a judicial review of the case. The individual may be detained another 60 days while the PIC continues its investigation. When a person is accused of a crime carrying a sentence of more than 8 years, the individual may be detained up to 84 days without being charged formally. With court approval, such detainees may be held for 2 more periods of 84 days each without charge while the police complete the investigative process. The law provides that when the prescribed period for investigation has been completed and no charges have been brought, the detainee must be released. In many cases the authorities either were unaware of these regulations or ignored them, often also ignoring a detainee’s constitutional right to counsel and to contact relatives or friends.

The law provides that citizens have access to the courts as well as the right to representation, regardless of ability to pay for such services. However, due to a shortage of legal professionals, indigent defendants frequently had no legal representation.

The bail system remained poorly defined. Prisoners, their families, and NGOs continued to complain that police and prison officials demanded bribes for releasing prisoners.

The government’s Commission for Strengthening the Law continued to attempt to address the problem of overcrowding of jails and prisons by proposing a series of measures, including converting sentences to fines, creating open prisons, and suspending sentences for those sentenced to less than two years in prison. In December 2004 the Ministry of Justice inaugurated an open prison (minimum security) in the outskirts of Maputo. Neither the National Assembly nor the attorney general’s office has considered the commission’s recommendations during year, and none were implemented by year’s end.

There were several reports that police harassed and arbitrarily detained journalists (see section 2.a.).

There were no reports of political detainees.

There continued to be reports of detainees who spent longer in pretrial detention than the period of the sentence they eventually received. By law a judge has 48 hours to validate a detention in any proceeding; however, this statute often was not enforced.

In June the Commission for the Strengthening of the Law ordered expedited trials for the estimated 755 prisoners in Sofala Province, many of whom had been detained past their preventive detention period.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the executive branch and the FRELIMO party heavily influenced an understaffed and inadequately trained judiciary. The judicial system continued to suffer from a lack of transparency and often did not comply with the principles of promotion and protection of human rights. Approximately 112 of the country’s 128 judicial districts had functioning courts. A shortage of judges and qualified staff was a major problem. There were approximately 190 judges (or about 1 judge per 100 thousand inhabitants), 75 of whom held law degrees as required by law for all judges appointed after 2000. Of the 1,065 staff employed by the courts, 3 percent held university degrees and 53 percent did not have secondary school diplomas. Continuing problems included chronic absenteeism, unequal treatment, deliberate delays, and omissions in handling cases.

The press reported that 57 legal proceedings against judges and MOJ officials took place during the year, 26 of which were still pending investigation at year’s end. Despite the statistics, observers believed the problem of unprofessional magistrate behavior was much worse.

The president appoints both the supreme court president and vice president. The Higher Judicial Magistrate’s Council (CSMJ) prepares supreme court nominations and submits a list of qualified potential supreme court nominees to the president. Members of the CSMJ tended to be either FRELIMO members or FRELIMO-affiliated. The president makes all other judicial appointments.

There are two complementary formal justice systems: the civil justice system and the military justice system. The Supreme Court administers the civil system, and the Ministry of National Defense administers military courts. Under the Supreme Court there are province- and district-level courts, and each province has a court of appeal. Cases in military courts may be appealed to the Supreme Court. Civilians are not under the jurisdiction of, or tried in, the military courts.

There also are courts that exercise limited, specialized jurisdiction, such as the administrative court, the customs court, and the maritime court. The constitutional council is charged with determining the constitutionality of laws and decrees, supervising the electoral process, declaring and validating electoral results, and ruling on electoral disputes. A separate court system exists for minors of 16 years of age and younger. The government may send minors to correctional, educational, or other institutions.

In 2004 the number of candidates to enter the magistrate rolls increased significantly, and the Legal Training Center trained 20 new-entry magistrates. During the year 39 law students enrolled in the center's 10-month training course.

Trial Procedures.—Persons accused of crimes against the government are tried publicly in regular civilian courts under standard criminal judicial procedures. Members of the media may attend trials, although space limitations prevented the general public from attending. A judge may order a trial closed to the media in the interest of national security or to protect the privacy of the plaintiff in a sexual assault case. There is no trial by jury.

In regular courts all accused persons, in principle, are presumed innocent and have the right to legal counsel and appeal; however, authorities did not always respect these rights. Although the law specifically provides for public defenders for the accused, such assistance generally was not available in practice, particularly in rural areas. LDH reported that most citizens remained unaware of this right, and many had no access to legal counsel. Some NGOs continued to offer limited legal counsel at little or no cost to both defendants and prisoners. Only judges or lawyers may confront or question witnesses.

Outside the formal court system, local customary courts and traditional authority figures often adjudicated matters such as estate and divorce cases. Respected local arbiters with no formal training staffed customary courts.

Political Prisoners.—There were no confirmed reports of political prisoners; however the Mozambican National Resistance (RENAMO) continued to claim that all persons convicted and sentenced in connection with the 2000 nationwide demonstrations were 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, opposition party members alleged that government intelligence services and ruling party activists continued without warrants to monitor telephone calls, conduct surveillance of their offices, follow opposition members, use informants, and disrupt party activities in certain areas of the country, including in Cabo Delgado and Nampula provinces. By law police require a warrant to enter homes and businesses and also to monitor telephone calls.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Although the law provides for freedom of speech and of the press, in practice there were some restrictions on these rights. Police harassed and arbitrarily detained journalists. Journalists generally practiced self-censorship regarding politically sensitive issues. The NGO Reporters Without Borders noted significant improvements in press freedom compared with previous years.

The independent media were active and expressed a wide variety of views. The government maintained majority ownership in *Noticias*, the main newspaper and the only daily with nationwide distribution. *Noticias*, the daily *Diário de Mocambique*, and weekly *Domingo* largely reflected the views of the government but also demonstrated a willingness to critically examine government actions. Following a series of fuel price hikes in June, *Noticias* reported on a meeting with Transport Minister Antonio Mungwambe in which participants publicly complained about the rising cost of living.

There were numerous private radio stations that operated throughout the country. Radio Mozambique, which receives 60 percent of its operating budget from the government, was the most influential service and generally was considered unbiased and fair.

The Media Institute of Southern Africa (MISA) again noted that the process for obtaining a radio operating license was often long, convoluted, and politically biased.

According to MISA, the country required a new law clearly delineating the difference between commercial and public radio.

The government supplied 80 percent of the operating budget for Televisao de Mocambique (TVM), the most widely viewed television station. While TVM provided more balanced news coverage than in previous years, it retained a strong government and FRELIMO party bias. In April and May TVM provided little coverage to a controversial parliamentary debate on government accounts in which the administrative court, in an unprecedented move, ruled that state funds had been widely misused.

The international media were allowed to operate freely.

Police and other officials harassed and arbitrarily detained local journalists during the year. On January 22, police threatened and manhandled reporters to block them from covering the return to the country of Anibal dos Santos Junior, the man responsible for the 2000 murder of Carlos Cardoso, the country's foremost investigative journalist. Authorities insisted that police acted within the law.

On February 7, members of the riot police detained two journalists from the Beira daily paper *Diario de Mocambique* and seized their camera equipment after the journalists photographed a police search operation. Following the incident, the riot police commander reportedly acknowledged that police were in the wrong and ordered the equipment returned. The journalists reported that the camera's memory had been erased.

On April 12, private security guards assaulted two journalists from the private television company STV while they were setting up filming equipment on a public street. The guards seized and damaged their equipment during the altercation and returned the equipment only after police intervened. Government criminal proceedings against the security guards were ongoing at year's end.

On December 1, the Supreme Court-ordered retrial for Anibal dos Santos Junior began.

While defamation of the president is prohibited, it was not invoked during the year.

In March a Maputo City judge barred the media from covering a libel case brought by Attorney General Joaquim Madeira against Momad Asif Abdul Satar, one of six men sentenced to prison in 2003 for the 2000 murder of Carlos Cardoso.

By year's end seven suits for defamation and libel had been brought against newspapers, three against a single newspaper in Zambezia.

There were no government restrictions on the Internet.

While the government generally did not restrict academic freedom, there were reports that teachers at the university, secondary, and primary school level felt pressure to align themselves with FRELIMO, particularly in the central and northern provinces.

In February the state-run Eduardo Mondlane University (UEM) dismissed two RENAMO parliamentary deputies from their director positions at the university. Both remained at UEM as lecturers, although without the additional salary and benefits that go with a directorship at the institution. Under university regulations the vice chancellor may appoint or dismiss university directors, but observers suspected political harassment because both individuals were RENAMO deputies.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—Although the law provides for freedom of assembly, there were reports during the year of authorities using force to disperse demonstrations. While the law regulates public demonstrations, it does not apply to private gatherings held indoors and by individual invitation, nor does it affect religious gatherings or election campaigning.

On February 9, riot police violently dispersed a peaceful student demonstration outside a public secondary school in the northern city of Nampula. According to reports, police beat students with batons and rifle butts. Although the Nampula police commander indicated that his command conducted internal investigations, no police officer was punished by year's end.

During the year relations improved between the government and the Madjermane, a group of more than 10 thousand citizens who worked in the former East Germany until the early 1990s and who protested their perceived lack of benefits for their past work by occupying the German Embassy in Maputo for several days in July 2004. After the government banned the Madjermanes in 2003 from participating in public events, it formally invited them to participate in the May 1 Worker's Day march and in the June 25 independence celebrations. On December 12, the Ministry of Labor announced that the government would pay the Madjermane group \$48.2 million in reparations and would provide additional med-

ical benefits to 882 workers who sustained work-related injuries while in the former East Germany.

Freedom of Association.—The law generally provides for freedom of association, although the government imposed some limits on this right. According to the law a political party is required to demonstrate that it has no regional, racial, ethnic, or religious exclusiveness and must secure at least 2 thousand signatures to be recognized (see section 3). There were approximately 47 registered political parties.

A government decree regulates the registration and activities of foreign NGOs. Nonpolitical foreign NGOs and religious groups must register with the Ministry of Foreign Affairs and Cooperation (MFA) and are required to provide significant details on their organization's projects, staffing, and finances. Domestic NGOs must register with the MOJ. The registration process for foreign NGOs and religious groups reportedly involved significant discretion on the part of government officials and regularly took several months. Unlike in previous years, there were no reports during the year that NGOs had to make illegal payments to stay in operation.

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

The law requires local religious institutions and missionary organizations to register with the MOJ, reveal their principal source of funds, and provide the names of at least 500 followers in good standing. The MOJ routinely granted registration to applicants. The Christian Council of Mozambique, an umbrella organization for several Protestant churches, reported that not all religious groups registered but that unregistered groups worshipped unhindered by the government.

Unlike in previous years, there were no reports of Christian-Muslim tension or harassment of foreign missionaries by local authorities during the year. By year's end all foreign missionaries expelled in the past several years from the northern town of Montepuez by the local government on suspicion of being RENAMO spies had returned and resumed their activities.

The law governing political parties specifically forbids religious groups from organizing political parties and any political party from sponsoring religious propaganda.

The Catholic Church and some Muslim communities continued to request the return of certain properties nationalized by the government in the years immediately following independence, including schools, health centers, shops, and residences. According to the Office of the Archbishop of Maputo, the Catholic Church sought the return of approximately one hundred facilities throughout the country and awaited an agreement between the Vatican and the government intended to regulate the return of such properties.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination, including anti-Semitic acts, reported during the year. There was a very small Jewish population.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—While the law provides for these rights, the government sometimes infringed upon them.

Traffic checkpoints are legal and under the jurisdiction of traffic police. The number of police traffic checkpoints in Maputo increased markedly as part of a broader crackdown on crime after President Guebuza came into office in February. Checkpoints occasionally affected freedom of movement, and according to press reports, authorities sometimes abused and bribed citizens at checkpoints. Although there were fewer reports compared with previous years, there were some instances in large cities where police stopped foreigners and ordered them to present original passports or resident papers, sometimes refused to accept notarized copies, and fined or detained those who failed to show proper documents. Police, including members of community police councils, also routinely harassed, detained, and extorted bribes from local citizens for failure to carry identity papers (see section 1.d.).

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protections to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum, although refugees faced persecution. The government cooperated with the office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. UNHCR noted that coordination improved

under the Guebuza administration but acknowledged that problems remained, particularly concerning budget levels and refugee screening processes.

In December 2004 the government began issuing identification cards to refugees and asylum seekers that allow refugees to seek employment, enroll in school, open bank accounts, and rent accommodation. UNHCR reported that despite the issuance of identification cards, the government continued to limit refugee movement within the country. Refugees must request authorization to move outside the geographic region in which they have been registered. In addition refugees residing within the Marratane camp must request authorization to leave its boundaries, which has perpetuated the extracting of bribes by officials.

The number of refugees decreased significantly over the past year. As of September the refugee population was approximately 7,100, with the majority (6 thousand) located at Marratane refugee camp. Refugee camp conditions met minimal standards, although camp conditions improved in some areas during the year. UNHCR continued to report conflicts among rival Congolese groups and between Rwandans and Congolese. UNHCR also reported acts of physical violence, including rape and domestic disputes, within the camp. While the government provided police security in the camp, UNHCR recruited additional persons from within the camp to supplement the generally ineffective government police force.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In December 2004 citizens elected Armando Guebuza of the FRELIMO party as president in the country's third multiparty general elections. While domestic and international observers noted that voting day procedures generally followed international norms, they also documented irregularities in parts of the country during the campaign season and in the subsequent vote count. FRELIMO used significant state funds and resources for campaign purposes, in violation of election law. RENAMO issued complaints of election fraud to several agencies, including the Constitutional Council. On January 20, the Constitutional Council affirmed Guebuza as the winner.

The National Electoral Council issued a series of nonbinding recommendations for future elections, including the establishment of a single, consolidated voter registration list (there were three in the 2004 election). Other remedies tracked closely with advice given by national and international election observation groups, including the European Union and Carter Center.

On May 21, citizens of the small northern town of Mocimboa da Praia voted in a by-election to fill the vacancy caused by the death of the previous mayor. In the by-election the FRELIMO candidate defeated the RENAMO candidate. RENAMO alleged polling irregularities in the vote count, police intimidation, and police detention of several members and sympathizers.

On September 6, at least 8 persons were killed and 47 injured in a clash between FRELIMO and RENAMO supporters over the disputed mayoral election in Mocimboa da Praia. Authorities issued arrest warrants for three RENAMO officials believed responsible for inciting the violence. While some press reports suggested an ethnic or tribal dimension to the violence, the government stated that political differences fueled the clashes.

There were 87 women in the 250-seat National Assembly. Women held 6 of the 24 ministerial positions and 6 of the 18 vice ministerial positions. Luisa Diogo retained her role as prime minister. Women held more than 30 percent of the seats on FRELIMO's 2 governing bodies, the Political Commission and the Central Committee.

Members of many ethnic groups held key positions in both the legislative and executive branches. There was no evidence that specific ethnic groups were excluded.

Government Corruption and Transparency.—Corruption was widely perceived to be endemic. Low-level government officials use corrupt practices to supplement low incomes, while high-level elite were believed to employ corrupt practices to enhance their wealth, consolidate their positions, and prevent competition. Corruption largely resulted from a lack of checks and balances among the three branches of government, minimal accountability of elected officials, and a culture of impunity.

President Guebuza stated that fighting corruption was a priority of his administration, with a particular focus on judicial corruption and malfeasance among low- and middle-level government officials. In August the attorney general announced the establishment of the Central Office for the Combat of Corruption (GCCC), which replaced the attorney general's anticorruption unit (UAC). The GCCC functioned as

an autonomous unit under the attorney general's office, with its own state budget and authority to hire additional permanent full-time staff. Some observers continued to blame the judiciary for hampering efforts by the attorney general's office's to fight corruption, citing the low number of cases accepted by the court system.

According to the attorney general's annual report, between 2002 and June the UAC received 128 corruption cases: 70 remained under investigation, 30 cases were in court, 15 were dropped, 9 were sent to other institutions for consideration, and 4 were appended to other cases. Of those cases in court, none had resulted in convictions by year's end. There were several new cases of corruption reported during the year.

In May the PIC arrested the administrative manager of the main secondary school in the northern province of Nampula on suspicion of misappropriating funds earmarked for the improvement of the school's facilities. He was subsequently dismissed from his position, demoted, and transferred to the Provincial Directorate of Education.

In late December the minister of interior announced that an internal audit revealed nearly \$9 million (220 billion meticaís) in unaccounted-for funds. The auditors also discovered 55 "ghost workers" drawing wages from the ministry payroll. The minister identified 4 policemen who admitted to extorting money from a student and noted that during the year disciplinary proceedings for corruption were started against 135 policemen, 36 of whom were expelled from the police force.

In August the labor minister dismissed the director general of the National Social Security Institute (INSS) for alleged corruption and mismanagement. More than a dozen other senior INSS officials either were dismissed or reassigned within INSS.

During the year the UAC and GCCC investigated alleged siphoning of public funds by high-ranking officials in various ministries, including former minister of education, Alcido Nguenha.

During the year the NGO Etica Mozambique established corruption reporting centers in most major cities to provide citizens greater access to mechanisms to report corruption crimes. However, management and resource constraints severely limited their capacity to receive reports. The media continued to be one of the main forces fighting corruption, reporting and investigating numerous corruption cases.

There are no laws providing for the right of public access to information, and in practice the government restricted citizens' access to public information.

The law requires that all members of the government declare and deposit their assets to the Constitutional Council but does not require that such information be made available to the general public. During the year Minister of Finance Manuel Chang made public the list of assets he furnished to the Constitutional Council.

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

Domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Although at times slow, government officials often were cooperative and responsive. Registration procedures for NGOs often were lengthy (see section 2.b.).

In March a number of constitutional amendments passed by the National Assembly in 2004 came into force, including the creation of an independent ombudsman to investigate allegations of abuses (such as human rights violations) by state officials. The ombudsman had not been named by year's end.

LDH criticized the Ministry of Justice's Human Rights Department, created in 2004, for having too little contact with civil society.

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

The law prohibits discrimination based on race, gender, disability, language, or social status, but in practice discrimination persisted against women, persons with disabilities, and persons with HIV/AIDS.

Women.—Although official statistics were not kept, reports indicated that domestic violence against women, particularly spousal rape and beatings, was widespread. In many circles women believed it was acceptable for their husbands to beat them. Cultural pressures discouraged women from taking legal action against abusive spouses. There is no law that defines domestic violence as a crime, but laws prohibiting rape, battery, and assault may be used to prosecute domestic violence.

The government and NGOs worked together to promote women's rights. The Women and Children's Police Unit was expressly concerned with the issue of domestic violence. Of the 18 police squadrons in Maputo, 16 had Women and Children's Centers, which provided assistance in cases of physical and sexual assault, including domestic abuse. Between March and November, the Nucleus of Feminist Associations of Zambezia (NAFEZA) conducted 33 campaigns and workshops in several

Zambezia districts to raise awareness of the harmful effects of domestic violence. NAFEZA also held a workshop with the PRM in Zambezia on domestic violence, which resulted in the creation of the first all-female police unit in the province.

The law prohibits rape but not spousal rape. Penalties ranged from 2 to 8 years if the victim is 12 years of age or older, and 8 to 12 years if the victim is under the age of 12. While there were no official estimates as to the extent of spousal rape, it commonly was regarded as a problem. The rape law was not effectively enforced, and trials rarely occurred. According to NGO reports, many families preferred to settle such matters privately through financial remuneration rather than through the formal judicial system.

Prostitution is legal, although several laws against indecency and immoral behavior govern prostitution and restrict it to certain areas. The practice was widespread and particularly prevalent along major transportation corridors and border towns where long-distance truckers stayed overnight. Young women without means of support were at the greatest risk for being drawn into prostitution. There continued to be reports that police officers sexually abused prostitutes and demanded bribes in exchange for allowing them to work. Such cases rarely were reported in the media.

Numerous development organizations and health-oriented NGOs emphasized programs to improve women's health and increasingly focused resources on combating the spread of HIV/AIDS and sexually transmitted diseases among sex workers.

Sexual harassment was illegal and considered pervasive in business, government, and the education sector. Although no formal data existed, the media reported numerous instances of harassment during the year. In August the press reported that authorities dismissed the district administrator of Muecate, in the northern province of Nampula, over accusations of sexual harassment.

Forced marriage (with girls and women) commonly was perceived as a problem.

With the exception of some ethnic groups, the groom's family provided a dowry to the bride's family, usually in the form of livestock, money, or other goods. This exchange contributed to violence and other inequalities, due to the perception that the women subsequently were "owned" by the husband.

In February the Family Law went into effect, which raises the age of marriage to 18 for both sexes, eliminates husbands' de facto status as heads of families, and legalizes civil, religious, and common law unions. While the law does not recognize new cases of polygamy, women already in polygamous marriages are granted full marital and inheritance rights. The law defines more narrowly women's legal rights with regard to property, child custody, and other issues. Despite public awareness campaigns in some areas of the country, the majority of women remained uninformed about the law.

Customary law was still practiced in many parts of the country. In some regions, particularly the northern provinces, women had limited access to the formal judicial system for enforcement of rights provided under the civil code and instead relied on customary law to settle disputes. Under customary law, women have no rights to the disposition of land.

The law grants citizenship to the foreign-born wife of a male citizen but not to the foreign-born husband of a female citizen.

Women continued to experience economic discrimination, and women in the workplace often received lower pay than men for the same work.

Children.—The government's focus on children's rights and welfare increased during the year, but significant problems remained.

With the assistance of the NGO the Community Development Foundation (FDC) and the UN Children's Fund (UNICEF), the government formed the Child Protection Committee in 2004.

Education was compulsory through the age of 12, but enforcement of compulsory education laws was inconsistent due to the lack of resources and the need for additional schools. Public education was free, but most families must pay an enrollment fee for each child and purchase books and other school supplies. Children from families with especially low incomes are exempt from fees, but for most families, fees and associated costs remained a significant financial burden.

The number of primary schools in the country increased slightly during the year, although many remained overcrowded. The Ministry of Education made progress in increasing enrollments at all levels, but significant challenges remained. In 2004 approximately 73 percent of primary school-age girls and 78 percent of boys were enrolled in primary schools. Completion rates were much lower, especially for girls.

Newspapers continued to report that the parents of school children had to bribe teachers or officials to enroll their children in school. Parents often were willing to make payments since classroom space was insufficient for all children wishing to attend school, particularly from the eighth grade onward. Other reports indicated that girls exchanged, or were forced to exchange, sex with teachers for passing

grades. A June report by Save the Children stated that sexual abuse in schools was common. The report also noted that in instances where a desired outcome was achieved (awarding a passing grade), many girls and their families did not recognize the act as abuse. According to Save the Children, ministry officials denied the allegations noted in the report.

In an ongoing national campaign launched in June by the Ministry of Justice and UNICEF, officials registered approximately 40 thousand previously unregistered births.

In September the government, with support from UNICEF and the World Health Organization, launched a country-wide immunization campaign for children under the age of 15. More than 8 million children received vaccinations for measles and polio.

The government took steps to address the problems of the HIV/AIDS orphans in the country. It was estimated that 1 in every 5 households cared for at least 1 orphan, and estimates indicated that the number of children losing either 1 or both parents to AIDS would rise to 600 thousand by 2010. Several government agencies, including the Ministry of Health and the Ministry of Women and Social Action, developed programs to provide health assistance and vocational education for HIV/AIDS orphans.

There were reports of several cases of child abuse during the year. According to police, there were incidences of teachers hitting and threatening pupils with violence.

The Family Law sets the minimum age for civil marriage at 21 years, although persons between 18 and 20 may marry with parental consent. Despite the law, local customs, primarily in the northern provinces and in Muslim and South Asian communities, created a pattern of premature marriage. The NGO Mulheid and others worked to combat this custom through education campaigns on the dangers of the practice, including the spread of HIV/AIDS.

Exploitation of children below the age of 15 continued, and child prostitution remained a problem (see section 5, trafficking). The law prohibits pornography, child prostitution, and sexual abuse of children under 16. Persons engaged in child prostitution, use of children for illicit activities, child pornography, child trafficking, or forced or bonded child labor may be punished by prison sentences and fines. In practice perpetrators of these crimes rarely were identified and prosecuted, and punishment was not commensurate with that of a serious crime.

While the law prohibits the access of minors to bars and clubs, the government did not have adequate resources to enforce the law effectively. During the year the government trained police to aid child prostitutes and held a series of seminars to assist police in handling cases of child sexual abuse.

The trafficking of children for sexual exploitation and labor remained a problem (see section 5, Trafficking).

Child labor remained a problem, principally in the rural areas (see section 6.d.).

The country continued to have a problem with street children. There were no reliable figures on the number of street children nationwide. In 2004 the NGO Rede de Crianca, comprised of 33 community organizations that work with youth in Maputo, identified 3,419 street children in their programs.

The Maputo City Office of Women and Social Action continued its program of rescuing abandoned orphans and assisting single mothers who head families of three or more persons. They also offered special classes to children of broken homes in local schools. NGO groups sponsored food, shelter, and education programs in all major cities.

Trafficking in Persons.—The law does not prohibit trafficking in persons, and there were numerous reports that persons were trafficked to, from, or within the country. Traffickers can be prosecuted using existing laws on sexual assault, rape, abduction, and child abuse, but no such cases have been brought before a court. There were investigations of trafficking and arrests during the year.

In 2004 the Department of Migration signed an agreement with its counterpart in South Africa to share information on trafficking in persons and facilities. The Ministry of Interior provided training in women's and children's protection, including trafficking in persons, to police officers serving in Maputo, Beira, and Nampula. The MFA was charged with working with the United Nations to implement two international antitrafficking conventions.

The country is a point of origin for trafficked women and children. Poverty, a history of child migration, and weak border controls all contributed to trafficking. In a widely cited 2003 study, the International Office on Migration (IOM) reported that approximately one thousand Mozambican women and children were trafficked to South Africa every year. Reportedly, most traffickers brought their victims to South Africa through Swaziland, where border controls were particularly weak. Trafficking

victims came from both urban and rural backgrounds. The majority of victims were women and children, and they were trafficked for both sexual exploitation and forced labor. Many of the women trafficked were sold to brothels in Johannesburg or sold as concubines or "wives" to mineworkers in South Africa. Boys were trafficked as laborers on South African farms.

IOM conducted an inquiry in April that indicated women continued to be trafficked from the country and sold to mine workers at a mining district west of Johannesburg, known as the West Rand. Taxi drivers commuting between the two countries recruited young women from rural areas such as Macia and Chokwe in Gaza Province, as well as Maputo. The highway running through Maputo was another major recruiting ground for traffickers. In September South African police rescued three teenage Mozambican girls from traffickers and returned them to Mozambique.

In March police in Quelimane, Zambezia Province, arrested 2 men for attempting to sell an 11-year-old boy. The men were arrested, but it was not known whether charges were filed at year's end. In November police detained a minibus driver in the Manica Province for selling 35 children to farms and domiciles in the area. The man reportedly offered the children employment at his own residence, but instead sold them for the equivalent of \$4 (100 thousand meticaís). By year's end the man remained in detention pending formal charges by police.

Child prostitution appeared to be most prevalent in Maputo, Nampula, Beira, and at border towns and overnight stopping points along key transportation routes. Child prostitution reportedly was growing in the Maputo, Beira, and Nacala areas, which had highly mobile populations and a large number of transport workers. Child prostitution was reported in Sofala and Zambezia provinces. Some NGOs were working with child prostitutes by providing health care, counseling, and training in other vocations.

Traffickers were principally Mozambican or South African citizens, but involvement of Chinese and Nigerian syndicates also was reported. Trafficking groups of Mozambican origin included small networks of citizens based in Maputo and Nampula, and there were reports that organized crime groups were involved. Traffickers often lured victims from discos, bars, and markets promising better jobs in South Africa. Once there, they were threatened with exposure of their illegal status and forced to work for little or no pay. Often women were sexually assaulted en route to their destination or once they arrived in South Africa.

During the year the government attempted to provide basic protection for victims of trafficking. The Ministry of Women and Social Action provided counselors to help women and children victims of violence, including trafficking. Trained police officials continued to staff women's shelters at police stations to protect trafficking victims in Maputo, Beira, Nampula, and several large towns in Gaza Province.

The local NGOs Civic Education Forum and Terre d'Hommes opened an assistance center for repatriated trafficking victims in Moamba. The shelter served women and children and was located near the Ressano Garcia border post, a major thoroughfare for trafficked persons.

The Ministries of Interior and Women and Social Action actively participated in NGO and international organization-sponsored education campaigns for women in vulnerable communities by presenting information about trafficking-related laws and police services.

Persons with Disabilities.—Although the law stipulates that citizens with disabilities shall fully enjoy the same rights of all citizens, the government provided few resources to implement this provision. Discrimination was common against persons with disabilities in employment, education, access to healthcare, or in the provision of other state services. The law does not mandate access to buildings for person with disabilities.

Concerns of persons with disabilities included lack of access to socioeconomic opportunities and employment, limited accessibility to buildings and transportation, and a lack of wheelchairs. Special access facilities were rare. Electoral law provided for the needs of voters with disabilities in the polling booths. There were few job opportunities for persons with disabilities in the formal sector.

The Mozambican Association for the Blind and Vision Impaired (ACAMO) launched a year-long campaign to heighten public awareness of the discrimination in education, jobs, and housing faced by the approximately 700 thousand visually impaired citizens.

A school for the blind benefited 70 students. The government also provided several recreation centers for the blind and vision impaired, but according to ACAMO they were too few and badly placed to provide tangible benefit to the community. Although the government operated mental health facilities, conditions were extremely poor.

The Association of Disabled Mozambicans, the primary advocacy group in the country for persons with disabilities, reported that the government was beginning to exhibit a more positive attitude towards persons with disabilities. The group worked closely with the government to start a disabled sports federation, which was launched in May.

National/Racial/Ethnic Minorities.—There were reports of tension between newly arrived Chinese guest workers, often used in construction, and citizens in Beira, Sofala Province.

Other Societal Abuses and Discrimination.—NGO and press reports indicated persons with HIV/AIDS often faced discrimination in the workplace and rejection by their family. The law prohibits discrimination on the basis of HIV/AIDS, and the Ministry of Labor intervened in cases of perceived discrimination by employers.

Section 6. Worker Rights

a. The Right of Association.—The law provides that all workers are free to join or refrain from joining a trade union, and workers exercised these rights in practice. As of December 2004, 543,582 workers in the formal sector were registered with the National Social Security Institute, although not all registered workers were unionized. In October informal workers were declared official members of the Mozambican Workers' Association (OTM) during the launch event of the National Association of Workers and Operators in the Informal Sector. An estimated 6 percent of the population worked in the formal sector, and 10 percent of these workers were unionized. Some unions alleged that OTM was under the influence of FRELIMO.

b. The Right to Organize and Bargain Collectively.—Although the law protects the right of workers to organize and engage in collective bargaining, less than 2 percent of the work force was covered by collective bargaining contracts. The government did not set private sector salaries. Existing unions were responsible for negotiating wage increases.

The law explicitly provides for the right to strike, and workers exercised this right in practice; however, civil servants, police, military personnel, and workers in other essential services (including sanitation, fire fighting, and health care) did not have the right to strike. Repeated government promises to amend the law to provide full organizing and collective bargaining rights to public officials remained unfulfilled. The law specifies that strikers must notify police, the government, union, and employers 48 hours in advance of intended strikes. The law forbids retribution against strikers, the hiring of substitute workers, and lockouts by employers. There were reports that many companies continued to engage in antiunion discrimination: skirting regulations by replacing persons at the end of contracts, dismissing workers for going on strike, and not abiding by collective bargaining agreements.

Workers in the small number of export processing zones were subject to the same labor regulations as other workers, and worker rights generally were respected in practice.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced and compulsory labor, including by children, and while there were few reports that such practices occurred in the formal economy, forced and bonded labor, particularly by children, were common in the rural areas (see sections 5, 6.d., and 6.e.).

d. Prohibition of Child Labor and Minimum Age for Employment.—While the law prohibits child labor, it remained a problem. In the formal economy, the minimum working age without restrictions is 18 years of age. The law permits children between 15 and 18 to work, but the employer is required to provide for their education and professional training and ensure conditions of work are not damaging to their physical and moral development. Children between 12 and 15 are permitted to work under special conditions authorized jointly by the ministries of labor, health, and education. For minors under 18, the maximum workweek is 38 hours, and the maximum workday is 7 hours. Minors under 18 are not permitted to work in unhealthy or dangerous occupations or those requiring significant physical effort. Children must undergo a medical examination before beginning work. By law children must be paid at least the minimum wage or a minimum of two-thirds of the adult salary, whichever is higher.

Although the law prohibits forced and bonded labor by children, children in rural areas were forced to work, particularly in commercial agriculture, as domestics, and in prostitution. The major factors contributing to the worst forms of child labor were chronic family poverty, lack of employment for adults, breakdown of family support mechanisms, changing economic environment, lack of education opportunities, gender inequality, and the impact of HIV/AIDS. Children, including those under the age of 15, commonly worked on family farms independently in seasonal harvests or commercial plantations, where they were paid on a piecework basis and picked cotton

or tea leaves. In the urban informal sector children performed such tasks as guarding cars, collecting scrap metal, working as vendors, and selling trinkets and food in the streets.

Unlike in previous years, there were no reports that children were used to settle financial and other disputes.

Children orphaned by HIV/AIDS often were forced to work because they were left without family support.

The Ministry of Labor regulates child labor in both the informal and formal sectors. Labor inspectors may obtain court orders and use police to enforce compliance with child labor provisions. Violations of child labor provisions are punishable with fines ranging from 1 to 40 monthly salaries at minimum wage. Enforcement mechanisms generally were adequate in the formal sector but remained poor in the informal child labor. The Labor Inspectorate and police forces lacked adequate staff, funds, and training to investigate child labor cases, especially in areas outside of the capital where a majority of the abuses occurred. Although the government provided training for police on child prostitution and abuse (including pornography), there was no specialized child labor training for the Labor Inspectorate. The government disseminated information and provided education about the dangers of child labor.

e. Acceptable Conditions of Work.—In June the government granted a 14 percent increase in the statutory minimum wage for all salaried workers. The new minimum wage was approximately \$53 (1.3 million meticais) per month for workers in industrial and service sectors and \$39 (935 thousand meticais) per month for those in the agricultural sector. Despite the increase, which was above the inflation rate reported for 2004, neither minimum wage provided a decent standard of living for a worker and family. Although the industrial sector frequently paid above minimum wage, there was little industry outside of the Maputo area. In addition less than 10 percent of workers held salaried positions, and the majority of the labor force worked in subsistence farming. Many workers used a variety of strategies to survive, including finding a second job, maintaining their own gardens, or depending on the income of other family members.

The Ministry of Labor is responsible for enforcing the minimum wage rates in the private sector and the Ministry of Planning and Finance in the public sector. Violations of minimum wage rates usually were investigated only after workers registered a complaint. Workers generally received benefits, such as transportation and food, in addition to wages.

The standard legal workweek is 40 hours but can be extended to 48 hours. After 48 hours, overtime must be paid at 50 percent over the base hourly salary. Overtime is limited by law to 2 hours per day and 100 hours per year. Foreign workers are protected under the law.

Worker complaints continued during the year concerning employers deducting social security contributions from wages but failing to pay them into accounts and lack of access to the social security system. In August the director of the National Social Security Institute was dismissed for alleged corruption and mismanagement.

In May authorities in the northern province of Nampula launched an investigation into worker complaints of beatings, arbitrary firings, forced labor while sick or injured, and extremely low wages in several private companies, particularly the Ramiane Sisal Company.

In the small formal sector, health and environmental laws were enacted to protect workers; however, the Ministry of Labor did not effectively enforce these laws, and the government only occasionally closed firms for noncompliance. There continued to be significant violations of labor legislation in many companies and services. Workers have the right to remove themselves from work situations that endanger their health or safety without jeopardy to their continued employment; in practice threats of dismissal and peer pressure restricted this right.

The minister of labor reported 107 labor accidents between January and November, 5 of which resulted in deaths. While the law imposes fines for recurring accidents, no fines were imposed during the year. The law also requires that companies insure workers, but ministry of labor estimates indicated that only between 50 and 60 percent of companies actually provide coverage.

NAMIBIA

Namibia is a multiparty, multiracial democracy with a population of 2,030,000. On March 21, Hifikepunye Pohamba became the country's second democratically elected president; Pohamba was elected in November 2004 and replaced Sam

Nujoma, the country's first president and leader of the ruling South West Africa People's Organization (SWAPO). International and domestic observers agreed the 2004 general elections, in which SWAPO won three-quarters of national assembly seats, were generally free and reflected the will of the electorate despite some irregularities. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in several areas. An extreme disparity in income levels of black citizens and white citizens and high unemployment in the black majority continued to pose serious challenges. The following human rights problems were reported:

- security force use of excessive force during arrests and detentions, which resulted in deaths and injuries
- arbitrary arrest, lengthy pretrial detention, and lengthy delays during trials
- government attempts to curb media and nongovernmental (NGO) criticism
- violence against women and children, including rape and child abuse
- discrimination against women, ethnic minorities, and indigenous people
- child labor

During the year local human rights groups noted fewer restrictions on the media and a decrease in abuses committed by security forces. The government also took steps to curb corruption.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, security forces killed persons during the year.

On February 20, Police Constable “Kalisto” Mukeve reportedly raped and murdered Hilda Tjitana and her grandmother, Albertina Tjitana. Police subsequently arrested Mukeve, who was in detention awaiting trial at year's end.

On May 15, Detective Ferdinand Jacobs reportedly shot and killed Mervin Tseib, who allegedly attacked Jacobs with a knife during a separate arrest attempt in Keetmanshoop.

There were no developments in the 2004 killings by police of Francis Sikwai Musanza in July and Jeffrey Shalulu in December or the 2003 police beating of Alilo Ndungula, who subsequently died.

Unexploded ordnance resulted in one death and several injuries. Demining operations were completed during the year, and the country was declared “mine safe.”

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the constitution prohibits such practices, security forces sometimes beat or otherwise abused persons, including persons held in custody. Despite a police directive that prohibited the use of *sjamboks* (heavy leather whips), security forces continued to use them.

On January 26, Elihana Nghimwena claimed that police officers tortured him during a January 12 interrogation session; Nghimwena was arrested for theft on December 29 and released on January 21. No action had been taken against the police officers by year's end. Nghimwena subsequently filed a civil complaint against the police; his court case was scheduled for 2006.

Also on January 26, in the Nkarapamwe Township in Rundu, police officers Sheehama, Scott, and Mbekele reportedly detained and abused Pankratius Kawana for eight hours; Kawana was suspected of armed robbery. No action was taken against responsible police by year's end.

Unlike in previous years, there were no complaints of police harassment by members of the Mafwe ethnic group.

During the year the government took action against some security force members who abused persons in 2003. For example, a court martial was scheduled for March to try National Defense Force (NDF) members who harassed and beat Beau Pietersen and Hatani Mao Eichab for refusing to remove their earrings in 2003.

There were no developments in the 2003 case in which Special Field Forces (SFF) members allegedly assaulted George Petrus.

During the year media and human rights groups continued to report on ongoing civil court cases filed by individuals against the government as a result of alleged security force abuses during the 1999 secessionist attacks (see sections 1.d. and 1.e.). Approximately 120 of these civil cases were pending at year's end.

Unlike in previous years, there were no reports that paramilitary units abused persons. In February 2004 SFF members reportedly beat Theophilus Ambondo, allegedly for transporting maize meal in a government vehicle on the weekend.

There were reports of sexual misconduct by UN peacekeepers (see section 1.e.). Mob violence occurred. On July 22, approximately 400 disgruntled employees attacked and injured two managers from the Aussenkehr Grape Farm. A wage dispute and problems with racism at the farm reportedly triggered the incident; no one was charged.

Prison and Detention Center Conditions.—Conditions in prisons and military detention facilities were Spartan but generally met international standards. There were incidents of overcrowding and poor maintenance. Victims of abuse were able to pursue legal remedies. The Ministry of Safety and Security administered the country's prisons and jails and continued to work to improve conditions.

The government made efforts to separate juvenile offenders from adult criminals, but in many rural areas juveniles continued to be held with adults. There were several pilot programs that provided alternatives to incarceration for juvenile offenders, such as placing youths in homes.

The government continued to grant NGOs regular access to prisons and prisoners. The International Committee for the Red Cross (ICRC) requested and received prison access.

d. Arbitrary Arrest or Detention.—The constitution prohibits arbitrary arrest or detention; however, at times security forces did not observe these prohibitions.

Role of the Police and Security Apparatus.—The police, including the paramilitary SFF, supervised by the Ministry of Safety and Security, and the NDF, supervised by the Ministry of Defense, shared responsibility for internal security. The country's 10 thousand-member national police force (NAMPOL) is highly centralized with regional commands responsible to the inspector general of police, who reports to the minister of safety and security. Approximately half of NAMPOL's overall complement is assigned to the SFF, a paramilitary unit made up primarily of combatants from the former People's Liberation Army of Namibia; SFF members were assigned to guard duty, checkpoints, and the maintenance of public order. NAMPOL lacked the resources, training, and personnel to consistently deter or investigate street crime.

The police continued to make use of a human rights training course and a human rights training manual designed by the Legal Assistance Center (LAC). At times security force members accused of committing abuses were arrested and tried in military courts or the civilian criminal justice system; however, in other cases, the government did not take any action against those responsible for abuses.

Arrest and Detention.—Persons arrested must be informed of the reason for their arrest and must be brought before a magistrate within 48 hours of their detention, but the government did not always respect these provisions in practice. Arrest warrants were not required in all cases, such as if a suspect was apprehended during the commission of a crime. Those accused are entitled to defense by legal counsel of their choice, and those who cannot afford a lawyer are entitled to state-provided counsel. In practice many accused persons in remote and rural areas were not represented by counsel, primarily due to the lack of resources. Prisoners generally had access to legal counsel and family during regular visiting hours. Detainees had access to their lawyers prior to trial. There is a functioning bail system, and the LAC reported that it generally was observed except in rural areas, where persons often were unaware of their legal rights.

On occasion authorities held detainees incommunicado. For example, on January 14, immigration officials at the Hosea Kutako International Airport arrested 14-year-old Nadine Coleman on charges of being an illegal immigrant; Coleman had both her Namibian passport and birth certificate in her possession. Coleman was held without access to counsel or her family for a week.

Under a state of emergency, the constitution permits detention without trial, although the names of detainees must be published in the government's gazette within 14 days, and an advisory board appointed by the president must review their cases.

During the 1999 state of emergency declared in response to Caprivi Liberation Army (CLA) attacks in Katima Mulilo, security forces detained several hundred suspected CLA members and sympathizers, most of whom were released after two weeks. Trial proceedings began in 2003 in Grootfontein and were moved during the year to Windhoek, where they resumed. At year's end there were 120 suspects who remained in detention in Windhoek, some of whom filed civil suits alleging abuses by security forces (see section 1.c.).

The 12 refugees who were arrested on related charges of high treason after being forcibly returned from Botswana and Zambia in 2002 and 2003 remained in detention at year's end. Their trial was again delayed due to lack of legal representation for all the accused, but it started on September 19 and was ongoing at year's end.

Citizens who were arrested arbitrarily used civil suits as legal recourse in many cases.

A trial must take place within "a reasonable time," or the accused must be released; however, lengthy pretrial detention was a problem. The lack of qualified magistrates and other court officials and the high cost of legal aid resulted in a serious backlog of criminal cases, which often translated into delays of up to one year or more between arrest and trial, contravening constitutional provisions for the right to a speedy trial. Some of those awaiting trial were incarcerated in the same conditions as those of convicted criminals. Human rights organizations have criticized lengthy pretrial detentions.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and while the government generally respected this provision, the court system at times was inefficient.

The formal court system has 3 levels: 30 magistrates' courts; the high court; and the Supreme Court. The latter also served as a court of appeals and as a constitutional review court.

Most rural citizens first encountered the legal system through the traditional courts, which dealt with minor criminal offenses such as petty theft and infractions of local customs among members of the same ethnic group. The law delineates which offenses may be dealt with under the traditional system. The law defines the role, duties, and powers of traditional leaders and provides that customary law is invalid if it is inconsistent with provisions of the constitution.

Trial Procedures.—The constitution provides for the right to a fair trial with a presumption of innocence until proven guilty, but this right was limited somewhat in practice by long delays in hearing cases in the regular courts and the uneven application of constitutional protections in the traditional system (see section 1.d.). The law provides for public trials, but not juries. Defendants are presumed innocent, can confront witnesses, and have the right of appeal.

During the year procedural issues continued to dominate the high treason trials of detainees arrested in connection with the 1999 attacks on government institutions at Katima Mulilo (see section 1.d.).

The Law Society withdrew a 2004 case of contempt of court against Deputy Minister of Environment and Tourism Ilonga and SWAPO Party Youth League Secretary Kapia, who had criticized a judge for ordering the release of 13 detainees.

In response to a UN investigation into sexual misconduct by peacekeeping troops in Liberia, the government recalled three Namibian peacekeepers and launched its own inquiry.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The constitution provides all citizens with the right to privacy and requires arresting officers to secure a judicial warrant before conducting a search; government authorities generally respected these rights in practice. Violations were subject to legal action.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press, and while the government generally respected these rights, high-level government officials sometimes responded to criticism of the government and ruling party with verbal abuse. The government intimidated journalists into practicing self-censorship.

There were four daily national newspapers, three of which were independent, and two weekly newspapers, both of which were independent. The government contributed financially to the *New Era* newspaper and the *Namibia Press Agency*, both parastatals. The ruling SWAPO party owned one publication, *Namibia Today*. Reporters for independent newspapers continued to criticize the government openly and did not engage in self-censorship.

The government owned and operated the Namibian Broadcasting Corporation (NBC) Radio and Television. NBC television and nine radio services that broadcast in English and indigenous languages were the most widely heard and influential media in the country. During the year there were reports of government influence on NBC operations and editorial content as well as self-censorship by the staff. Two new independent radio stations were established during the year, bring the number of private radio stations to 11. There were two private television stations and a pri-

vate cable and satellite television service that broadcast international news and entertainment programs. The ruling SWAPO party owned 51 percent of this cable service.

Government departments continued to be precluded from using state funds to advertise in *The Namibian* newspaper because of the newspaper's critical coverage of the president and the government. Political parties, including the ruling SWAPO party, advertised in *The Namibian*.

During the year former Minister of Information Nangolo Mbumba reprimanded the media for publishing a letter that criticized former President Nujoma, and a former deputy minister called for a boycott of all local media that criticized the government. There were, however, fewer incidents of such criticism than in previous years.

There were no government restrictions on the Internet or 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.

Societal Abuses and Discrimination.—There is a very small Jewish community; there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 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 enforced these rights in practice.

The constitution prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The government also provided temporary protection to certain individuals who may not qualify as refugees under the 1951 convention/1967 protocol.

At year's end the population at the Osire Refugee Camp was approximately seven thousand. Approximately five thousand of this population was from Angola; the remaining refugees were from the Democratic Republic of the Congo, Burundi, Rwanda, and other African countries. The government generally did not permit refugees and asylum seekers to work or live outside the Osire refugee camp. Education through grade 10 was available to all refugees at the camp, and the government facilitated further secondary education for students with financial sponsorship at schools outside the camp. Some tension with local farmers persisted; farmers accused some refugees of stealing firewood, and refugees claimed they were not paid for informal labor.

The government continued to maintain strict control over civilian access to the Osire refugee camp; however, the ICRC, the UNHCR, and the UNHCR's NGO partners had regular and unrestricted access to the camp.

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

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—Presidential and parliamentary elections were held in November 2004. SWAPO candidate Hifikepunye Pohamba was elected president with 76.4 percent of the vote; SWAPO won 55 of 72 elected national assembly seats. International and domestic observers characterized both elections as free and reflecting the will of the electorate despite some irregularities. Observers criticized the inefficient vote tabulation system and the unequal access to media coverage and campaign financing. In the National Assembly, 6 opposition parties won a total of 17 seats. The inauguration of President-elect Pohamba and the National Assembly took place in March.

During the year opposition parties challenged the results of the 2004 parliamentary elections, which resulted in a court-ordered recount. The recount produced the same parliamentary seats for all parties but failed to allay some opposition concerns

regarding irregularities. The Republican Party subsequently launched another court challenge of the recount, which was pending before the high court at year's end.

Women held 20 seats in the 78-seat National Assembly. There was a women's caucus in parliament that reviewed legislation for gender sensitivity. There were 5 female ministers, including the attorney general, and 6 female deputy ministers among the 45 ministerial and deputy ministerial positions. The deputy prime minister was a woman.

Historic economic and educational disadvantages limited the participation of the indigenous San ethnic group in politics; however, a member of the San community represented the SWAPO party in the National Assembly. Virtually all of the country's other ethnic minorities were represented in parliament and in senior positions in the cabinet. Members of smaller ethnic groups held the offices of deputy prime minister and speaker of the National Assembly.

Government Corruption and Transparency.—The law prohibits corruption; however, it was a problem. Government institutions—including the Office of the Ombudsman and the Office of the Auditor-General—were in place to combat public corruption. In his March 21 inaugural address, President Pohamba said the government would address graft “with a sledgehammer,” and on June 9, he urged the heads of all state-owned enterprises to take action against corruption or face the legal consequences. In October the government also established an anticorruption commission.

During the year the government took action against corrupt officials. In September former deputy minister Paulus Kapia resigned due to allegations of corruption; SWAPO subsequently forced him to relinquish his parliamentary seat. In December the government dismissed and brought charges of misappropriation against the director of the state-run NBC. Also in December several members of the Walvis Bay Town Council were suspended for alleged corruption.

There were notable cases of malfeasance in several of the country's parastatals. Reports of corruption in the Social Security Commission, the Offshore Development Company, the passport division of the Ministry of Home Affairs, and the Government Institute Pension Fund received widespread media coverage.

No laws provided for public access to government information, but the government generally provided such access in practice.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, government officials continued to publicly disapprove of NGO criticism of the ruling party and government policies. NGOs continued to criticize government policies freely.

During the year representatives of international human rights organizations visited the country.

There was an autonomous ombudsman, with whom the government cooperated; he was considered effective in addressing some corruption and human rights issues.

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

The constitution prohibits discrimination based on race, creed, gender, or religion, and specifically prohibits “the practice and ideology of apartheid”; however, the government did not effectively enforce these prohibitions.

Women.—Domestic violence against women, including beating and rape, was widespread. Traditional attitudes regarding the subordination of women exacerbated problems of sexual and domestic violence. Domestic violence is against the law, and the law defines rape in broad terms and allows for the prosecution of spousal rape. The penalties for rape ranged from 5 years' to 45 years' imprisonment, and the government enforced the law. Numerous rapists were prosecuted during the year. In some magistrate's courts, there were special courtrooms to protect vulnerable witnesses from open testimony; the courtrooms featured a cubicle made of one-way glass and child-friendly waiting rooms.

There were 15 Women and child protection units staffed with police officers trained to assist victims of sexual assault. During the year the People's Education, Assistance, and Counseling for Empowerment Center and other NGOs continued to provide training to these units. The media continued to report on rape and domestic violence.

The law does not prohibit prostitution, and it occurred.

The law prohibits sexual harassment; however, it was a problem.

The law prohibits discrimination against women, including employment discrimination; however, men dominated positions in upper management. The Ministry of

Labor and Social Welfare and the Employment Equity Commission, which reports to the minister of labor, were responsible for problems involving discrimination in employment; however, neither was effective due to the backlog of cases. The law prohibits discriminatory practices against women married under civil law, but women who married under customary (traditional) law continued to face legal and cultural discrimination. Traditional practices that permitted family members to confiscate the property of deceased men from their widows and children still existed.

The Ministry of Gender Equality and Child Welfare was responsible for advocating for women's rights. The Ministry of Justice's Law Reform and Development Commission advocated for women's rights in legislation, such as the Maintenance Act.

Children.—The law enumerates children's rights, including those in the area of education and health, and the government dedicated approximately 23 percent of its budget for education and 11 percent for health care. However, resource constraints and untrained support staff resulted in inadequate attention to child welfare.

Although the constitution provides children with the right to primary and junior secondary education (grades 1 to 10), the numerous fees, which included fees for uniforms, books, boarding costs, and school improvement, placed a heavy burden on students' families and precluded some children from attending school. Education was compulsory until the age of 16. Approximately 95 percent of students attended school until the 7th grade; approximately 89 percent attended school until the 10th grade. In general, more girls than boys were enrolled in secondary schools. Many San children did not attend school.

Corporal punishment of children is illegal; however, the practice was common in rural areas and received widespread media coverage during the year. In October 2004 in Katutura Township, a sixth grade teacher beat two students with a metal pipe after a classmate accused them of stealing her cell phone. The mother of 13-year-old Kapurunje Uirab filed legal action. On August 31, the high court ruled in favor of Uirab and ordered the teacher and the Ministry of Education to pay \$5,500 (NAD 35 thousand).

During the year the government took several steps to provide medical care and other assistance to the approximately 100 thousand HIV/AIDS orphans and other vulnerable children. For example, the government reduced or eliminated school fees and provided social grants.

Child abuse was a serious problem, and authorities vigorously prosecuted crimes against children, particularly rape and incest. During the year supreme court judge of appeal Pio Teek was charged with rape and forced to resign; the trial was ongoing at year's end. The law protects children under 18 years of age by criminalizing sexual exploitation, child pornography, and child prostitution. The age of sexual consent was 16 years. During the year the government continued to provide training for police officials to improve the handling of child sex abuse cases. Centers for abused women and children worked actively to reduce the trauma suffered by abused children.

Child prostitution occurred, and parents as well as perpetrators were liable in such cases. The growing number of HIV/AIDS orphans increased the vulnerability of children to sexual abuse and exploitation.

Numerous children orphaned by HIV/AIDS engaged in prostitution.

Child labor was a problem (see section 6.d.).

Trafficking in Persons.—The law specifically prohibits trafficking in persons, and there were no reports of persons being trafficked to, from, or within the country; however, child prostitution occurred. The law also prohibits slavery, kidnapping, and forced labor, including forced prostitution, child labor, and alien smuggling. Traffickers were subject to fines of up to \$166 thousand (NAD 1 million) or up to 50 years' imprisonment.

Child prostitution occurred (see section 5, children).

Persons with Disabilities.—While discrimination on the basis of disability is not addressed in the constitution, the law prohibits discrimination against persons with disabilities in employment. Enforcement in this area was ineffective. Societal discrimination also persisted. The government does not legally require special access to public buildings for persons with disabilities, and some ministries remained inaccessible to them. Although some municipal governments have installed ramps and special curbing for persons with disabilities at street crossings, physical access for those with disabilities remained a problem. Disability issues continued to receive greater public attention than in previous years, with wider press coverage of the human rights problems that confront persons with disabilities.

National/Racial/Ethnic Minorities.—Despite constitutional prohibitions, societal, racial, and ethnic discrimination persisted. Many nonwhites continued to complain

that the government was not moving quickly enough to provide education, health, housing, employment, and access to land. Some citizens continued to accuse the government of providing more development assistance and professional opportunities to the majority Ovambo ethnic group. There also were reported cases of black farm workers suffering discrimination in remote areas at the hands of white farm owners.

Indigenous People.—The San, the country's earliest known inhabitants, historically have been exploited by other ethnic groups. By law, all indigenous groups participate equally in decisions affecting their lands, cultures, traditions, and allocations of natural resources; however, the San and other indigenous citizens have been unable to exercise these rights fully as a result of minimal access to education, limited economic opportunities, and their relative isolation. The government took measures to end societal discrimination against the San, including seeking their advice about proposed legislation on communally held lands and increasing their access to education. Despite these measures, many San children did not attend school. In February 2004 the LAC filed charges on behalf of 18 members of the San community against more than 20 communal farmers who allegedly beat them after accusing the San of stock theft; the case was pending at year's end. NGOs reported a decrease in complaints that the San were unable to obtain proper identification documents; however, problems continued due to lack of birth records and lack of government officials with the necessary language skills.

The government has authority to confer recognition or withhold it from traditional leaders, even in opposition to local preference. This authority was controversial because of the local leaders' influence on local events, including local police powers. In some cases the government withheld recognition from genuine traditional leaders for political reasons. For example, the government recognized traditional leaders from the Mafwe community, reportedly because the leaders of were close to SWAPO; however, the government has not recognized leaders of the Khwe in West Caprivi.

Other Societal Abuses and Discrimination.—The unimplemented 2004 Labor Act did not specifically enumerate homosexuals as a group protected from employment discrimination, and such discrimination occurred. During the year senior government officials continued to make disparaging public remarks about homosexuals. For example, on September 27, Deputy Minister for Home Affairs and Immigration Mushelenga said that homosexuals were a "slap in the face of African culture." Her remarks sparked wide criticism in the media and by human rights groups.

Section 6. Worker Rights

a. The Right of Association.—The constitution provides for the freedom to form and join trade unions, and workers exercised this right in practice. Farm workers and domestic servants working on rural and remote farms often did not know their rights, and unions experienced obstacles in attempting to organize these workers. As a result, farm workers reportedly suffered abuse by employers. They also had poor access to health care. During the year the government continued efforts to train labor inspectors and educate workers on their rights.

The law provides a process for employer recognition of trade unions and protection for members and organizers. The law specifically protects both union organizers and striking workers from employer retaliation; however, the scarcity of judges and lack of expertise in labor law caused lengthy and unnecessary delays in such cases.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides employees with the right to bargain individually or collectively and to recognize the exclusive collective bargaining power of the union when a majority of the workers were members of that union; workers exercised these rights in practice. Collective bargaining was not practiced widely outside the mining and construction industries, which had centralized, industry-wide bargaining. Almost all collective bargaining was at the workplace and company level. The Ministry of Labor cited lack of information and basic negotiation skills as factors hampering workers' ability to bargain with employers successfully.

Except for workers providing essential services such as jobs related to public health and safety, workers have the right to strike once conciliation procedures are exhausted and 48-hour notice has been given to the employer and labor commissioner. Legal strikes were conducted during the year. Under the law, strike action can be used only in disputes involving specific worker interests, such as pay raises. Disputes over worker rights, including dismissals, must be referred to a labor court for arbitration. The law protects workers engaged in legal strikes from unfair dismissal.

There are export processing zones (EPZs) at the Walvis Bay and Oshikango industrial parks and a number of single-factory EPZs outside of these parks. The law applies to EPZs, and unions have been active in the EPZs since their establishment.

c. Prohibition of Forced or Compulsory Labor.—Although the law prohibits forced or compulsory labor, including by children, there continued to be media reports that farm workers (including some children on communal farms) and domestic workers often received inadequate compensation for their labor and were subject to strict control by employers. Given the Ministry of Labor's resource constraints, labor inspectors sometimes encountered problems in gaining access to the country's large communal and family-owned commercial farms to investigate possible labor code violations.

d. Prohibition of Child Labor and Minimum Age for Employment.—There are laws to protect children from exploitation in the workplace; however, child labor continued to be a problem. Criminal penalties and court orders were available to the government to enforce child labor laws, but such action involved a complicated legal procedure. Under the law, the minimum age for employment is 14 years, with higher age requirements for night work and in certain sectors such as mining and construction. The minimum age was inconsistent with the age for completing education requirements (see section 5). Children below the age of 14 often worked on family-owned commercial farms and in the informal sector, and some also worked in communal areas.

Child prostitution occurred (see section 5).

The government took steps to end child labor abuses. On September 28, the government launched a National Initiative to Eliminate Exploitative Forms of Child Labor. The initiative is designed to determine the extent of child labor in the country and to eliminate the worst forms of child labor. During the year the Ministry of Labor continued to hire additional inspectors and to monitor abuses with International Labor Organization representatives, who visited the country during the year. The government also continued to work with NGOs to assist the victims of child labor.

e. Acceptable Conditions of Work.—There was no statutory minimum wage law, but the mining, construction, and agricultural sectors set basic levels of pay through collective bargaining. Average wages for unskilled workers did not provide a decent standard of living for a worker and family, especially since the average wage earner supported the extended family. Wage levels for the less educated majority remained very low.

The standard legal workweek is 45 hours and required at least one 36-hour rest period per week. An employer may require no more than 10 hours per week of overtime. The law mandates 24 workdays of annual leave per year, at least 30 workdays of sick leave over a three-year period, and 3 months of maternity leave paid in part by the Social Security Commission. The Ministry of Labor did not always enforce these provisions.

The government mandates occupational health and safety standards, and the Labor Act empowers the president to enforce these standards through inspections and criminal penalties. Labor laws generally were implemented efficiently, but the Ministry of Labor lacked an adequate number of trained inspectors to monitor adherence to such labor regulations as providing overtime pay and social security by some companies, especially small, family-owned operations. The law requires employers to ensure the health, safety, and welfare of their employees. It provides employees with the right to remove themselves from dangerous work situations; however, some workers did not have this right in practice.

The law accords the same rights to legal foreign workers as to citizens.

NIGER

Niger is a multiparty republic that returned to democracy in 1999 following coups in 1996 and 1999; it had a population of 11.3 million. In December 2004 Mamadou Tandja was elected to his second five-year presidential term in an election that international observers deemed generally free and fair. Four parties joined the ruling coalition of the National Movement for the Development of Society (MNSD) and the Democratic and Socialist Convention (CDS) to win a majority of national assembly seats. The civilian authorities generally maintained effective control of the security forces.

The government improved its human rights record during the year; however, there were problems in some areas. Severe food shortages and nationwide protests

over the January imposition of a higher value added tax (VAT) influenced the human rights situation. The following human rights problems were reported:

- poor prison conditions
- arbitrary arrest and detention
- prolonged pretrial detention
- executive interference in the judiciary
- restrictions on freedom of speech
- forcible dispersion of demonstrators
- societal discrimination and violence against women and persons with disabilities
- female genital mutilation (FGM)
- trafficking in persons
- child labor, including forced labor
- caste-based servitude

Government achievements during the year included aggressive efforts to curb official corruption, child labor, and child abuse. The government also joined a regional effort to eliminate child trafficking, culminating in the signing of a multilateral antitrafficking agreement with eight neighboring countries.

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 that the government or its agents committed arbitrary or unlawful killings.

On March 4, the Niamey regional court granted provisional release to former tourism minister Rhissa Ag Boula, who had been charged with complicity in the January 2004 killing of local MNSD political party leader Adam Amenge. The release reportedly followed a statement of forgiveness from the victim's family. Of the 23 persons arrested in connection with the killing, 4 remained in prison at year's end.

On April 4, the court issued a 6-month suspended sentence and a \$57 (30 thousand CFA francs) fine to a police officer convicted of the 2003 killing of a customs officer. The court also ordered the government to pay \$18 thousand (10 million CFA francs) in damages to the victim's family. The customs union was appealing the verdict as insufficient at year's end.

Bandits set up roadblocks along southern highways and attacked and robbed persons during the year (see section 2.d.). On December 2, armed bandits killed a French tourist; two of the three suspects were arrested.

Disputes between herders and farmers over land tenure and grazing areas resulted in deaths during the year. On May 6, in Western Dosso Region, such a dispute resulted in 11 deaths and 12 injuries. Police arrested the alleged instigator of the violence, and his case was pending at year's end.

On June 3, in a village in Tillaberi Region, riots erupted over the sale of subsidized food; one person was killed and eight others were injured. Police detained three persons, one of whom remained in custody awaiting trial at year's end.

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

In January the three gendarmes who were kidnapped by armed men in a 2004 bus attack were released.

Violence between Malian and Nigerien herders along the border between the two countries resulted in kidnappings.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and unlike in previous years, there were no reports that security forces beat and abused persons during the year.

Police forcibly dispersed demonstrations, which resulted in injuries (see section 2.b.).

During the year the appeals court of Niamey upheld the 2003 convictions of three paramilitary policemen convicted of using excessive force during an investigation in 2002.

No action was taken against security forces who arrested and beat a health worker for refusing medical treatment to the child of a Republican Guard.

The investigation into the 2004 abuse by security forces of civilians in Tesker was ongoing at year's end.

Unlike in the previous year, there were no reports that armed persons claiming to reconstitute the Air and Azawak Liberation Front attacked vehicles and passengers in the northern region of Agadez.

Disputes between herders and farmers over land tenure and grazing areas in Western Dosso Region resulted in deaths and injuries during the year (see section 1.a.). In February and March, violence between Malian and Nigerien herders along the border between the two countries resulted in kidnappings, beatings, and loss of livestock and property. Citizens of the region continued to complain of a lack of border policing by the government.

Prison and Detention Center Conditions.—Conditions in all 35 of the country's prisons were poor and life threatening. Prisons were underfunded, understaffed, and overcrowded. For example, in Niamey's civil prison, there were approximately 650 prisoners in a facility built for 350; more than 455 of these were awaiting trial at year's end. Family visits were allowed, and prisoners could receive supplemental food, medicine, and other necessities from their families; however, nutrition and health conditions were poor, and deaths occurred from AIDS, tuberculosis, and malaria.

Corruption among prison staff was rampant. Prisoners could bribe officials to leave prison for the day and serve their sentences in the evenings. Some prisoners bribed officials to serve their sentences in the national hospital.

Pretrial detainees were held with convicted prisoners.

Human rights observers, including the International Committee of the Red Cross (ICRC), were granted unrestricted access to prisons and detention centers and conducted visits during the year. In September the local NGO Association Against Torture and Arbitrary Detention visited several prisons in the Niamey area to assess detention conditions.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the law prohibits detention without charge in excess of 48 hours; police at times violated these provisions.

Role of the Police and Security Apparatus.—The armed forces, under the Defense Ministry, were responsible for internal and external security; the gendarmerie, also under the Defense Ministry, had primary responsibility for rural security; the national forces for intervention and security, under the Interior Ministry, was responsible for domestic security and the protection of high-level officials and government buildings; and the national police, also under the Interior Ministry, were responsible for urban law enforcement.

The police were ineffective, primarily because of inadequate resources. Basic supplies such as vehicle fuel, radios, uniforms, handcuffs, batons, and badges were scarce. Patrols were sporadic, and emergency response time in Niamey could take 45 minutes. Police training was minimal, and only specialized police units had basic weapons-handling skills. In 2003 the National Assembly adopted legislation granting police more decision-making authority and increased compensation; however, corruption remained pervasive. Citizens complained that security forces did not adequately police border regions. The gendarmerie is responsible for investigation of police abuse; however, impunity was a problem.

Arrest and Detention.—The law requires a warrant for an arrest and provides for a 48-hour investigative detention period. If police fail to gather sufficient evidence within that period, the prosecutor can give the case to another officer, and a new 48-hour investigative detention period begins. Poor communications hindered accurate identification of detainees and could result in prolonging the 48-hour detention period. A defendant has the right to a lawyer immediately upon detention, and bail is available for crimes carrying a penalty of less than 10 years' imprisonment. Widespread ignorance of the law and lack of financial means prevented many of the accused from taking full advantage of these rights.

In March the government arrested five leaders of the Coalition Against the Rising cost of Living, which had organized popular protests against the January imposition of a higher VAT (see section 2.b.). The five were charged with conspiracy against state security, call to armed gathering, and unauthorized creation of an association. During the preliminary hearings, the judge reportedly offered to free the detainees in exchange for their commitment not to talk publicly or call for further protests; however, the five rejected the offer and were placed under preventive detention in separate prisons. On April 7, the men were released, but charges were still pending at year's end.

Security forces arrested journalists, a human rights activist, and numerous demonstrators during the year (see sections 2.a., 2.b., and 4).

There were no reports of political detainees.

Police occasionally conducted sweeps to detain suspected criminals.

There were serious backlogs in the judicial system. Despite legal limits to the pretrial confinement period of indicted persons, detention frequently lasted months or years; some persons have been waiting as long as six years to be charged.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, the executive branch sometimes interfered with the judicial process. In civilian matters there were credible reports that family and business ties influenced lower court decisions. Judges sometimes feared reassignment or having their financial benefits reduced if they rendered a decision unfavorable to the government. In some instances judges granted provisional release pending trial to high-profile defendants. Persons in such status had complete freedom of movement and could leave the country, but the charges against them remained pending, and they were subject to recall by the courts at any point. Such persons were seldom called back to trial, and some observers charged that provisional release amounted to a denial of fair public trial.

The court of appeals reviewed questions of fact and law, while the Supreme Court reviewed only the application of the law and constitutional questions. There also were customary courts and a military court.

Trial Procedures.—Trials were public, and juries were used. Defendants have the right to counsel, to be present at trial, to confront witnesses, to examine the evidence against them, and to appeal verdicts, first to the court of appeals, then to the Supreme Court. The law affirms the presumption of innocence. The law provides for counsel at public expense for minors and indigent defendants charged with crimes carrying a sentence of 10 years or more. Although lawyers complied with government requests to provide counsel, the government generally did not remunerate them. Widespread ignorance of the law prevented many accused from taking full advantage of these rights. There were no defense attorneys located outside the capital, although lawyers traveled to other locations to provide legal assistance as requested.

The military court provides the same rights as civilian courts, but it cannot try civilians.

On July 21, the military court sentenced three of five army officers charged with high treason in 2002 to jail terms of one to five years for “arbitrary arrest and confinement.” The other two army officers were released without charge. Thirteen other officers originally charged in the case but living in self-imposed exile abroad were sentenced in absentia to nine years’ imprisonment.

Traditional chiefs could act as mediators and counselors and had authority in customary law cases as well as status under national law, where they were designated as auxiliaries to local officials. Chiefs received government stipends but had no police or judicial powers and could only mediate, not arbitrate, customary law disputes. Customary courts, located only in large towns and cities, try cases involving divorce or inheritance. They are headed by a legal practitioner with basic legal training who was advised by an assessor knowledgeable in the society’s traditions. The judicial actions of chiefs and customary courts are not regulated by law, and defendants could appeal a verdict to the formal court system. Women did not have equal legal status with men in the traditional and customary courts and did not enjoy the same access to legal redress (see section 5).

Political Prisoners.—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. Under the State Security Law, police may conduct searches without warrants when they have strong suspicion that a house shelters criminals or stolen property. Unlike in previous years, there were no reports that police conducted routine searches without warrants.

On July 21, the military court sentenced 3 of the 5 army officers charged with treason after their homes were searched without warrant in 2002 (see section 1.e.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government restricted these rights during the year and intimidated journalists into practicing self-censorship.

The government published a French-language daily newspaper, *Le Sahel*, and its weekend edition. There were approximately 12 private French-language weekly or monthly newspapers, some of which were affiliated loosely with political parties. The private press criticized government actions.

Since literacy and personal incomes were both very low, radio was the most important medium of public communication. The government-owned radio station *La Voix du Sahel* provided news and other programs in French and several local languages. There were several private radio stations; five were owned locally and featured popular news programs in local languages. These private radio stations generally were less critical of the government than were the private newspapers. The government-operated multilingual national radio service generally provided equi-

table broadcasting time for all political parties; however, opposition political parties complained of unequal coverage of their activities by government-owned media.

Television was a far less important medium than radio. The government-owned *Tele-Sahel* and TAL-TV broadcast programming in French and other major national languages. A private television station, *TV Tenere*, also broadcast local and foreign programming. The director of a private radio station operated a wireless cable television service for the capital, offering access to international channels.

During the year the government seized cameras and film from journalists, closed a private radio station, and brought libel charges against journalists who criticized the government, particularly in its handling of the food crisis and the VAT increase.

On March 24, the government's spokesman and minister for institutional relations seized a journalist's camera during a press conference on the January VAT increase. Following anti-VAT protests in Zinder, the region's governor ordered the confiscation of a private television channel's video footage of the events.

The High Council for Communications (CSC) is the only government agency with the legal power to close radio stations, and it may do so only after receiving a complaint. However, on March 29, the government ordered the police to close a private radio station without informing the CSC, charging that the station's March 29 broadcast of civil society criticism against the VAT increase constituted a threat to public order. On April 5, the radio station reopened after the regional court of Niamey ruled the closure illegal. On May 7, the CSC ordered the station to refrain from broadcasting political news, sports coverage, or commercials. The minister of the interior subsequently threatened to "take action" against private radio stations and newspapers that carried calls for demonstrations against the VAT. Local independent press associations criticized the government's actions.

In May the editors of *Sahel Dimanche* ordered one of the newspaper's writers to take three weeks of leave following her April 29 coverage of the country's food crisis. Government officials angered by the coverage reportedly influenced the editors.

On July 15, the government charged Raliou Hamed Assalek, a private radio station director and correspondent for Radio France International (RFI), with defamation for alleging that the governor of the northern region of Agadez had diverted foreign food aid from its intended recipients. On July 25, Assalek was granted provisional release. On November 29, Assalek was tried, and on December 20, he was given a suspended sentence and fined \$400 (200 thousand CFA francs) in damages. The case was under appeal at year's end.

In September Yahaya Yandaka, the governor of Agadez, filed a \$19 thousand (10 million CFA francs) civil lawsuit against Abdoulaye Harouna, the publisher of a local newspaper who alleged corruption and malfeasance in the governor's handling of foreign food aid in his newspaper. The governor subsequently initiated libel proceedings. On September 27, Harouna was sentenced to four months' imprisonment but granted immediate provisional release. The case was under appeal at year's end.

On November 12, security forces arrested independent journalist Abdoukarim Salifou on charges of criminal libel; Salifou had written an article accusing the country's treasurer of embezzling funds. On December 2, the court sentenced Salifou to two months' imprisonment (including time already served) and a symbolic fine of one CFA franc.

On January 9, Sanoussi Jackou, opposition leader and publisher of an opposition newspaper, was released; Jackou was arrested in December 2004 for "arousing ethnic hatred" during his appearance on a radio talk show.

There were no further developments in the 2004 arrest and provisional release of Moussa Kaka, who was charged with conspiracy after he broadcast reports on the alleged reactivation of the Tuareg rebellion in the north.

Defamation charges against Maman Abou, who was arrested and released in 2003, remained pending at year's end.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and while the government generally respected this right, police forcibly dispersed demonstrations during the year. The government retained the authority to prohibit gatherings either under tense social conditions or if advance notice (48 hours) was not provided.

The January 4 imposition of VAT increases on electricity, water, and foodstuffs resulted in general strike days and nationwide demonstrations, many of which became violent and were forcibly dispersed by police. For example, on March 15, the Coalition Against the Rising Cost of Living organized a large march that resulted in considerable property damage. Police arrested and briefly detained 47 demonstrators. By the end of April police had arrested 93 demonstrators, most of whom were charged with property destruction. All had been released by June.

On February 14, police reportedly beat student demonstrators with batons and whips in the town of Konni; several students were briefly detained.

On May 28, in the village of Tamaske, police fired shots to disperse a demonstration, which resulted in serious injury to two demonstrators. Several persons also were injured during a stampede that followed the police firing. Police arrested three demonstrators, one of whom remained in detention at year's end. The demonstrators were protesting alleged corruption and political favoritism in the distribution of food. An investigation was being conducted at year's end.

No action was taken against police who forcibly dispersed demonstrators in 2004 and 2003.

Freedom of Association.—The law provides for freedom of association; however, citizens may not form political parties based on ethnicity, religion, or region.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right, as long as persons respected public order, social peace, and national unity.

Islam was the dominant religion and the Islamic Association, which acted as an official advisory committee on religious matters to the government, broadcast bi-weekly on the government-controlled television station. On government-controlled media, Christian programs generally were broadcast only on special occasions, such as Christmas and Easter, although the independent media regularly broadcast such programs.

Religious organizations must register with the Interior Ministry. This registration was a formality, and there was no evidence that the government ever refused to register a religious organization.

Societal Abuses and Discrimination.—There was no significant Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for freedom of movement, and the government generally respected this right. Security forces at checkpoints monitored the travel of persons and the circulation of goods, particularly near major population centers, and sometimes demanded bribes. During the year transportation unions and civil society groups criticized such practices, and the Anticorruption Commission called for an investigation into checkpoint corruption; however, no investigation had been conducted by year's end.

There were reports that bandits set up roadblocks along southern highways and robbed persons during the year; one person was killed (see section 1.a.). On December 2, three armed bandits attacked persons returning from a regional market near the border with Mali and stole their camels, cash, and other valuables.

The law prohibits forced exile, and there were no reports that the government used it.

Protection of Refugees.—The law does not provide for granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, although the country is a signatory to the convention. The government has not established a system for providing protection to refugees, but in practice provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not routinely grant refugee or asylum status, although it did cooperate with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The UNHCR's regional office in Benin was responsible for refugee assistance and protection in the country; the government's interministerial National Refugee Eligibility Committee performed refugee prescreening duties. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and its 1967 protocol and has offered asylum to several thousand persons, primarily from Mali and Chad. Approximately 500 refugees from Chad and other neighboring countries remained in the country.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—In December 2004 Mamadou Tandja was elected to his second 5-year presidential term with 65 percent of the vote in an election that international observers described as generally free and fair, despite some

irregularities on election day. A coalition composed of the MNSD, CDS, the Rally for Social Democracy, the Rally for Democracy and Progress, the Nigerien Alliance for Democracy and Progress, and the Social-Democratic Party of Niger backed Tandja and won 88 of the 113 seats in the National Assembly. The opposition Nigerien Party for Democracy and Socialism won 25 seats. Tandja reappointed MNSD party president Hama Amadou as prime minister.

Women traditionally have played a subordinate role in politics. The societal practice of husbands' voting their wives' proxy ballots effectively disenfranchised many women in the 1999 elections; however, female voter turnout substantially increased during local, legislative, and presidential elections held in 2004. There were 14 women in the National Assembly and 6 female ministers in the cabinet; 6 of the country's 20 ambassadors were women. The law mandates that women receive 25 percent of senior government positions and fill 10 percent of elected seats; women held at least 10 percent of the 3,747 local council positions.

All major ethnic groups were represented at all levels of government. There were eight seats in the National Assembly designated for representatives of "special constituencies," specifically ethnic minorities and nomadic populations. President Tandja, who reportedly is half Peul and half Kanouri, is the country's first president who is not from either the Hausa or the Djerma ethnic groups, which make up approximately 56 percent and 22 percent, respectively, of the country's population.

Government Corruption and Transparency.—The government publicly acknowledged that corruption was a problem and prosecuted numerous officials for corruption during the year. There was a widespread public perception of corruption in the executive and legislative branches.

On April 15, the Niamey regional court sentenced Sanou Joseph, the prime minister's legal advisor, to 1 year in prison and a \$92 (50 thousand CFA francs) fine for embezzling \$93,922 (51 million CFA francs) from an NGO he ran in the 1990s. On June 28, the court of appeals dismissed the case due to insufficient evidence.

Following a July investigation, the Ministry of Finance indicted the deputy director of salaries for forging documents to collect \$64,800 (35 million CFA francs) on behalf of fictitious civil servants. The case against him was pending at year's end. Also in July the minister of civil service and labor fired three senior officials for accepting bribes in exchange for providing passing grades to applicants taking the civil service exam.

On September 7, 15 civil servants in the city of Dosso were sentenced to 5 months' imprisonment for accepting bribes in exchange for providing answers and passing scores while administering the standardized junior high school test.

On September 24, the former director general of the country's Francophone Games Organization was arrested and indicted on charges of abuse of public property; he allegedly had embezzled funds and operated a private construction company that received contracts from the organization during his directorship. The case was pending at year's end.

The National Commission on Corruption set priorities to investigate corruption in justice, health care, education, and transportation; however, the commission still lacked office space and an adequate budget at year's end.

There were no laws that provided for public access to government information; however, many documents could be obtained from individual ministries and the National Archives.

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. These findings were sometimes highly critical of the government. Government officials often were unresponsive to their views and denied allegations of human rights abuses. The ICRC was active in the country.

During the year a coalition of human rights NGOs sued the government to reverse a presidential decree that named new members to the Commission on Human Rights and Fundamental Liberties, which the government created to promote communication, advocacy, and investigation of human rights abuses. While acknowledging the president's legal right to name new members, the NGOs maintained that they should have been consulted in the selection process. On December 28, the Supreme Court annulled the presidential decree.

On July 4, security forces arrested Oumarou Souley, a local NGO representative, for issuing a statement that criticized the poor condition and management of Gaya hospital. On July 6, he was sentenced to 2 months' imprisonment and fined \$46 (25 thousand CFA francs) on defamation charges. On September 5, he was released.

On October 26, civil society activist Houhou Arzika was attacked and severely beaten by the bodyguards of Moussa Dan Foulani, a wealthy businessman believed to have ties with high-level government officials. In a radio interview several weeks earlier, Arzika had accused Foulani of corruption and malfeasance in his management of government contracts. On October 27, after Arzika filed a complaint, the gendarmerie called Foulani to its Niamey headquarters for questioning. On December 21, Foulani was arrested, arraigned, and jailed; however, he was granted provisional release on December 28. The criminal case against him was pending at year's end.

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

Although the law prohibits discrimination based on sex, social origin, race, ethnicity, or religion, there were instances of societal discrimination against women, children, ethnic minorities, and persons with disabilities, including limited economic and political opportunities.

Women.—Domestic violence against women was widespread, although reliable statistics were not available. Wife beating reportedly was common. The law does not prohibit domestic violence; however, a woman can sue her husband or lodge criminal charges for battery, penalties for which ranged from 2 months in prison and a \$19 (10 thousand CFA francs) fine to 30 years' imprisonment. The government enforced these laws, but charges stemming from family disputes were often dropped in favor of traditional dispute resolution mechanisms. Families often intervened to prevent the worst abuses, and women may (and did) divorce because of physical abuse. While women have the right to seek redress for violence in the customary or modern courts, few did so due to ignorance of the legal system, fear of social stigma, or fear of repudiation. Some women's rights organizations reported that prostitution often was the only economic alternative for a woman who wanted to leave her husband.

Rape is a crime punishable by 10 to 30 years' imprisonment depending upon the circumstance and age of the victim; the law was enforced. Reliable statistics on its prevalence were not available. The law does not explicitly recognize spousal rape.

Certain ethnic groups practiced FGM, and approximately 20 percent of women in the country had undergone it, according to a 1999 World Health Organization global study. Clitoridectomy was the most common form. FGM is against the law, and those convicted of practicing it and their accomplices face prison sentences ranging from six months to three years. If the victim of FGM dies, the practitioner can be sentenced from 10 to 20 years' imprisonment. The government also took an active role in combating FGM and worked closely with local NGOs, community leaders, the UN Children's Fund (UNICEF), and other donors to develop and distribute educational materials at government clinics and maternal health centers and participated in information seminars and dissemination of publicity.

Prostitution was illegal, but remained prevalent in big cities and near major mining and military sites.

Sexual harassment is a crime punishable by prison sentences from 3 to 6 months and fines from \$20 to \$200 (10 thousand to 100 thousand CFA francs). If the violator is in a position of authority, the prison sentence is from 3 months to 1 year, and the fine is increased from \$40 to \$400 (20 thousand to 200 thousand CFA francs).

Despite the constitution's provisions for women's rights, deep-seated traditional and religious beliefs resulted in discrimination in education, employment, and property rights. Discrimination was worse in rural areas, where women helped with subsistence farming and did much of the childrearing, water- and wood-gathering, and other work. Despite constituting 47 percent of the formal sector work force, only 26 percent of civil service workers and 22 percent of professionals were female.

Legal rights as heads of household applied only to men; divorced or widowed women, even with children, were not considered to be heads of households. In the east there were reports that some women were cloistered and could leave their homes only if escorted by a male relative and usually only after dark.

National service, which lasted from 18 months to 2 years, was mandatory for all young men and women who completed university studies or professional training. Men were allowed to serve in the military as part of their national service obligation; however, even though women were allowed to serve in the military, they could meet their national service obligation only by serving as teachers, health service workers, or technical specialists.

Children.—Although the law provides that the government promote children's welfare, financial resources for this purpose were extremely limited. Education was compulsory and free for a minimum period of six years; however, according to the Ministry of Basic Education, only approximately 50 percent of children of primary school age attended school, and an estimated 60 percent of those who finished pri-

mary schools were boys. The majority of young girls were kept at home to work and were married at a young age, rarely attending school for more than a few years. This resulted in a female literacy rate of approximately 10 percent compared with approximately 30 percent for males, according to a 2004 UN Development Program report. Literacy rates, particularly for girls, were even lower in rural areas.

Unlike in previous years there were no reported incidents of child abuse, which was rare, according to UNICEF.

FGM was performed on young girls in certain ethnic groups (see section 5, Women).

Underage marriage was a problem, especially in rural areas and in traditional communities. Some families entered into marriage agreements under which young girls from rural areas were sent by the age of 10 or 12 and sometimes younger to join their husband's family under the tutelage of their mother-in-law.

Trafficking and commercial sexual exploitation of children was a problem (see section 5, Trafficking). Child labor also was a problem (see section 6.d.).

Infanticide occurred, and 80 percent of the female prison population was charged with the crime. According to the Ministry of Justice, infanticide resulted from severe economic conditions.

There were many displaced children, mostly boys, begging on the streets of the larger cities. Most of these boys came from rural areas and were indentured to Koranic schools by their parents due to economic hardship (see section 5, Trafficking).

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons, and there were reports that persons were trafficked to, from, and within the country. Traffickers could be prosecuted under a 2004 revision of the penal code that criminalizes slavery and other forms of coerced labor; sentences for conviction ranged from 10 to 30 years' imprisonment.

During the year one man was convicted of kidnapping and sentenced to three years in prison for attempting to sell his nephew.

The ministries of justice, interior, and the promotion of women and protection of children shared responsibility for combating trafficking in persons. The National Commission for the Coordination of the Fight Against Trafficking in Persons existed on paper but had no budget.

On July 27, the government, along with eight neighboring countries, signed a multilateral cooperation agreement to combat child trafficking. Signatories agreed to prosecute and punish traffickers, develop antitrafficking legislation, share information on victims and traffickers with international authorities, and develop partnerships with civil society groups and NGOs to combat child trafficking.

There was evidence that the country was a transit point for persons trafficked between Nigeria, Benin, Togo, Ghana, Burkina Faso, and Mali; final destinations also included North African and European countries. The country was a destination for a small number of trafficked persons, and a source of persons trafficked to North Africa, Europe, and the Middle East for domestic servitude and sexual exploitation. Internal trafficking also occurred, and there was anecdotal evidence that clandestine networks victimized young girls who worked as household helpers.

A survey conducted by a local NGO during the year found that 5.8 percent of households interviewed claimed that at least one member of their household had been a victim of trafficking. Internal trafficking of young boys for labor and young girls for work as maids and in some cases for prostitution from rural to urban areas occurred. There were credible reports of underage girls being drawn into prostitution, sometimes with the complicity of the family. There also were reports that child prostitution was especially prevalent along the main East-West highway, particularly between the towns of Birni N'konni and Zinder. Child prostitution is not criminalized specifically, and there was no precise age of consent; however, the law prohibits "indecent" acts toward minors. It was left to a judge to determine what constituted an indecent act. Such activity and a corollary statute against "the incitement of minors to wrongdoing" were punishable by three to five years in prison.

There also were reports of internal trafficking that included the indenturing of boys to Koranic teachers. As a result of economic hardship, some rural parents sent their sons to learn the Koran in the cities where, in return for their education, the boys supported their teachers by begging on the streets or doing manual labor.

Trafficking in persons generally was conducted by small operators who promised well-paid employment in the country. Victims, primarily from neighboring countries, were escorted through the formalities of entering the country and found that their employment options were restricted to poorly paid domestic work or prostitution. Victims had to use a substantial portion of their income to reimburse the persons who brought them to the country for the cost of the trip. Compliance was enforced by "contracts," which were signed by illiterate victims before they departed their

countries of origin; alternatively, traffickers seized victim's travel documents. A local NGO also reported that some rural children were victims of domestic trafficking in which the victim (or his/her family) was promised a relatively decent job only to be placed in a home to work as a servant.

The government provided no services for trafficking victims, but supported the efforts of the ICRC and CARITAS in providing food, temporary shelter, and primary health care.

During the year the government undertook several initiatives to prevent trafficking. In September the government and the NGO Save the Children conducted a train-the-trainer exercise for police and border security officers to identify victims of trafficking. In December the government worked with UNICEF and two local NGOs to provide similar training for an additional 150 law enforcement officers. The government also sponsored public outreach sessions on trafficking and child abuse, targeting traditional chiefs, community leaders, and journalists. Media coverage of trafficking increased during the year.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, and access to health care and other state services, and the government generally enforced these provisions. The law mandates that the state provide for persons with disabilities, but the government had not implemented regulations to mandate accessibility to buildings, transportation, and education for those with special needs. Limited government health care benefits were available to persons with disabilities, and NGOs provided many services and programs. Societal discrimination existed against persons with disabilities, particularly mental disabilities and leprosy. The Ministry of Population and Social Welfare was responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—The Hausa and Djerma ethnic groups made up approximately 56 percent and 22 percent, respectively, of the country's population. These two groups also dominated government and business, and many believed that nepotism existed along ethnic lines.

Unlike in the previous year, there were no reports of banditry in the north that may have involved former Tuareg rebels; however, land use conflicts between farmers and herders in the south resulted in deaths and injuries (see section 1.a.).

During the year six persons were released for lack of evidence, and five persons remained in prison in connection with the November 2004 violence between farmers and herders in the town of Fassi.

In November the government's High Commission for the Restoration of Peace hosted a reconciliation forum in Tesker for the Tuareg and Toubou communities, which resulted in a reconciliation agreement. The forum was in response to the 2003 violence between the two communities.

Other Societal Abuses and Discrimination.—Despite strong government efforts to discourage discrimination against persons with HIV/AIDS, societal discrimination against such persons continued.

Section 6. Worker Rights

a. The Right of Association.—The law recognizes workers' right to establish and join trade unions, and workers exercised this right. However, more than 85 percent of the workforce was employed in the nonunionized subsistence agricultural and small trading sectors.

In June the Labor Confederation of Niger referred the dispute of activist Diamyo Elhadji Yacouba to the International Labor Organization (ILO), where it was pending at year's end.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and unions exercised their right to bargain collectively for wages above the legal minimum and for more favorable work conditions. Collective bargaining also existed in the public sector. There are no export processing zones.

The law provides for the right to strike, except for security forces and police, and workers exercised this right.

c. Prohibition of Forced or Compulsory Labor.—The labor code prohibits forced or compulsory labor, except for legally convicted prisoners, and slavery is prohibited; however, there were reports that such practices occurred (see section 5). A traditional form of caste-based servitude was still practiced by the Tuareg, Djerma, and Arab ethnic minorities, particularly in remote northern regions and along the border with Nigeria.

Persons born into a traditionally subordinate caste were often expected to work without pay for those above them in the traditional social structure. Approximately 43 thousand persons worked under such conditions, according to a study conducted

in 2003 by the NGO Anti-Slavery International and the local NGO Timidria. Individuals could legally change their situations, but most did not and accepted their circumstances. Timidria's 2003 survey studied 11 thousand persons born into servitude; 80 percent reportedly indicated that the persons for whom they worked determined whom they married and whether their children attended school.

The labor code does not prohibit specifically forced or compulsory labor by children, and there were credible reports of underage girls being drawn into prostitution and of underage boys working as laborers in mines, slaughterhouses, and rice fields (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—Although the law permits child labor in nonindustrialized enterprises under certain conditions, the law prohibits child labor in industrial work. However, child labor was a problem.

Children under the age of 14 must obtain special authorization to work, and those 14 to 18 years of age were limited to a maximum of 4½ hours per day and certain types of employment so schooling may continue. Children under 12 years of age are prohibited from working. The law requires employers to ensure minimum sanitary working conditions for children. Ministry of labor inspectors were responsible for enforcing child labor laws; however, resource constraints limited their ability to do so.

Children worked in the unregulated agricultural, commercial, and artisan sectors, and some—including foreign—youths were hired in homes as general helpers and baby sitters for very low pay. The majority of rural children regularly worked with their families from a very early age—helping in the fields, pounding grain, tending animals, getting firewood and water, and doing similar tasks. Some children were kept out of school to guide a blind relative on begging rounds. Others sometimes were employed by Koranic teachers to beg in the streets (see section 5).

Child labor also occurred in the largely unregulated gold mining sector. Children working in gold mines were particularly vulnerable to poor ventilation, collapse hazards, and insufficient lighting; they also were susceptible to alcohol and substance abuse.

Trafficking in children, child prostitution, forced child labor, and involvement of children in a traditional form of caste-based servitude occurred (see sections 5 and 6.c.).

The Ministry of Labor, which was responsible for implementing ILO Convention 182 on the Worst Forms of Child Labor, continued working with UNICEF and the International Program on the Elimination of Child Labor to determine the extent of child labor in the country. Preliminary findings revealed that 61 percent of children between the ages of 5 and 9, and 83 percent of children between the ages of 10 and 14 worked; 40 percent of child workers were not paid. The ministry collaborated with international NGOs to prevent and remove children from exploitive work situations, encourage school attendance, and to provide vocational training for 700 at-risk children and former child laborers. The government also worked with international partners to provide economically relevant education as an inducement to parents to keep their children in school. The Ministry of Basic Education conducted training sessions to help educators meet the special needs of child laborers. During the year the government also created a special child labor division within the Ministry of Labor to coordinate government initiatives in the area.

e. Acceptable Conditions of Work.—The labor code establishes a minimum wage for salaried workers of each class and category within the formal sector; however, minimum wages did not provide a decent standard of living for workers and their families. The lowest minimum wage was \$40 (20 thousand CFA francs) per month. Additional salary was granted at \$2 (one thousand CFA francs) per month per child. Most households had multiple earners (largely in informal commerce) and relied on the extended family for support.

The legal workweek was 40 hours with a minimum of one 24-hour rest period; however, for certain occupations, such as private security guards, the Ministry of Labor authorized longer workweeks of up to 72 hours. There were no reports of violations during the year.

The labor code also establishes occupational safety and health standards, although due to staff shortages, inspectors focused on safety violations only in the most dangerous industries: mining, building, and manufacturing. The gold mining industry was largely unregulated. Although generally satisfied with the safety equipment provided by employers, citing in particular adequate protection from radiation in the uranium mines, union workers in many cases were not well informed of the risks posed by their jobs. Workers have the right to remove themselves from hazardous conditions without fear of losing their jobs, but in most cases this did not occur.

NIGERIA

Nigeria is a federal republic composed of 36 states and a capital territory, with a population of 140 to 150 million. In April 2003, President Olusegun Obasanjo of the People's Democratic Party (PDP) was reelected to a four-year term after being declared the winner in elections that were marred by what international and domestic observers termed to be serious irregularities and fraud, including political violence. The elections also resulted in the ruling PDP claiming 70 percent of the seats in the national legislature and 75 percent of the state governorships. An extended legal challenge to the 2003 election verdict ended in July when the Supreme Court upheld the election result. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted outside the law.

The government's human rights record remained poor, and government officials at all levels continued to commit serious abuses. Inadequate infrastructure, endemic corruption, and general economic mismanagement hindered economic growth. Much of the country's wealth remained concentrated in the hands of a small elite. More than 70 percent of citizens live on less than one dollar per day. The following human rights problems were reported:

- abridgement of citizens' right to change their government
- politically motivated and extrajudicial killings by security forces and use of excessive force
- vigilante violence
- beatings of prisoners, detainees, and suspected criminals
- harsh punishments by Shari'a courts
- impunity
- harsh and life-threatening prison conditions
- arbitrary arrest and prolonged pretrial detention
- executive interference in the judiciary and judicial corruption
- infringement of privacy rights
- restrictions on freedom of speech, press, and assembly
- limited freedom of religion and movement
- domestic violence and discrimination against women
- female genital mutilation (FGM)
- child abuse and child prostitution
- communal violence and ethnic, regional, and religious discrimination
- trafficking in persons for purposes of prostitution and forced labor
- restrictions on workers' rights
- child labor

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There was politically motivated killings by the government or its agents. National police, army, and other security forces committed extrajudicial killings or used excessive force to apprehend criminals and to disperse protesters during the year, when crowds were perceived by police as possibly likely to become violent.

Police and the armed forces were instructed to use lethal force against suspected criminals and suspected vandals near oil pipelines in the Niger Delta region. Multi-national oil companies and domestic oil producing companies often hired private security forces and subsidized living expenses for police and soldiers from area units assigned to protect oil facilities in the volatile Niger Delta region. Freelance and former security forces accounted for a portion of the violent crime committed during the year.

In January following the firing of Inspector-General of Police Tafa Balogun for corruption, Acting Inspector-General Sunday Ehindero disbanded the Federal anticrime taskforce known as "Operation Fire for Fire," which was responsible for numerous human rights abuses in previous years. Unlike in the previous year, the organization did not announce its killing statistics; however, observers noted no difference in the number of extrajudicial killings committed by police and anticrime taskforce personnel during the year. In most cases police officers were not held accountable for excessive or deadly force or for the deaths of persons in custody. Police

generally operated with impunity in the apprehension, illegal detention, and sometimes execution of criminal suspects (see section 1.d.).

Abuses by poorly-trained, poorly-equipped, and poorly-managed police against civilians were common human rights violation, and the police were rarely held accountable. During the year police, military, and anticrime personnel continued to use lethal force against suspected criminals. For example on June 5, police officers killed 2 youths in Port Harcourt, Rivers State, and detained the driver of the youths' vehicle incommunicado for 17 days. Authorities initially claimed the two youths were known armed robbers; however, when investigation revealed that it was a case of mistaken identity, police attempted to cover the mistake by framing the youths for an actual armed robbery. The youths' father lodged an appeal with the inspector general's office.

On occasion police were reprimanded for the use of excessive force. For example on February 20, police in Makurdi, Benue State, shot and killed 19-year-old Suleiyol Hiikyaa, a passenger in an automobile driven by her boyfriend. The couple was allegedly having sex in the vehicle when police became suspicious that the two were armed robbers and opened fire. All four policemen involved were dismissed from the force, and the policeman who fired the shot that killed Hiikyaa was charged with manslaughter.

On March 2, a policeman in Makurdi, Benue State, shot and killed a commercial bus driver when the driver could not pay a \$0.15 (20 naira) bribe. Angered by this killing and the February 20 killing of Suleiyol Hiikyaa, members of the community burned a police station, blocked roads, burned cars, severely beat an assistant inspector-general of police, and reportedly killed at least three policemen. The policeman who shot the bus driver confessed to the killing, claiming he was drunk at the time. He was dismissed from the force and charged with murder. His trial had not begun by year's end.

There were no developments in the 2004 cases of killings of suspected criminals by police in Bauchi or Zamfara states.

Criminal suspects died from unnatural causes while in official custody, usually as the result of neglect and harsh treatment (see section 1.c.). For example on May 1, in Kubwa, police beat bus driver Gabriel Agbane while arresting him. When Agbane's family went to the police station the next day, they found him unconscious. Police released him to the family, who took him to a hospital, where he died four days later. Police announced to journalists that Agbane had been drunk during the arrest, had not been healthy, and had fainted on his own.

In its July report "*Rest in Pieces—Police Torture and Deaths in Custody in Nigeria*," Human Rights Watch described how in May six young men being held in police custody in connection with a bank robbery in Enugu were led before journalists at the state criminal investigation department, even though they had not been convicted of the crime. Their families were denied access to them despite repeated efforts. On May 9, the families were told the suspects had been transferred to state police headquarters in Enugu, but officers in Enugu denied they were there. Days later the bodies of the six young men were found at the University of Nigeria Teaching Hospital mortuary in Enugu. Officials did not respond to the families' inquiries for additional information.

In March an investigative panel released its report on the October 2004 incident in which police had secretly buried 12 bodies in a mass grave in Kaduna. The panel found that the victims had attempted a jailbreak, but that the police had acted improperly in killing them and attempting to hide the bodies. The panel forwarded its recommendations to the federal government, which had taken no action by year's end.

Violence and lethal force at police and military roadblocks and checkpoints continued during the year, despite the January announcement by the acting inspector-general of police that police roadblocks would be eliminated. Police generally ignored the order, and roadblocks continued nationwide. Security forces frequently killed persons while trying to extort money from them. For example on January 12, police in Uromi, Edo State, stopped a taxi to demand a \$0.30 (40 naira) bribe. When the driver gave \$0.15 (20 naira) and started to leave the scene, a police officer fired at the vehicle, striking and killing a student riding in the taxi. Youths in the town rioted in response, burning a police station, two police cars, and the divisional police officer's residence. There was no information on disciplinary action taken against the police officer.

On October 17, in Obiaruku, Delta State, a policeman on the Special Anti-Robber Squad shot and killed a commercial bus driver when the driver was unable to pay a bribe. The policeman was dismissed from the force two days later and charged with murder. The trial had not begun by year's end.

On June 7, police in Apo stopped six traders at a vehicle checkpoint. An argument ensued, and the police shot and killed two of the six, then detained the other four, who were subsequently killed in custody. The police attempted to bury the six bodies secretly, but Apo residents found and unearched the bodies, then marched with the corpses to the police station. Police fled the resulting riot. The police claimed the six had been “armed robbers.” Six police officers, including a deputy commissioner of police, were charged with murder. The trial continued at year’s end.

On May 18, on a Zamfara state highway, taxi driver Malam Danjariri was shot and killed during a scuffle with three police officers who had demanded a \$0.15 (20 naira) bribe from him. Following the incident, riots erupted in which three persons were killed. One policeman was charged with culpable homicide and dismissed from the police force, while the other two officers were demoted.

There were no developments in the 2004 case of the police shootings of Ramadan gift-seekers in Zamfara State.

There were no developments in the 2004 cases of bribe-related killings in Ekiti and Kwara states.

Security forces committed other unlawful killings during the year.

On July 25, in Lagos, a naval officer shot and killed a motorcycle taxi driver after what observers termed a “minor accident.” Other motorcycle taxi drivers in the area reacted violently to the shooting, burning the naval officer’s car and threatening his life. The disturbance was finally quelled by police intervention. The officer was still in naval custody and the investigation continued at year’s end.

Police and military personnel used excessive force and sometimes deadly force in the suppression of civil unrest, property vandalism, and interethnic violence (see section 5). There were reports of summary executions, assaults, and other abuses carried out by military personnel and paramilitary mobile police across the Niger Delta.

The federal government sometimes deployed the army in troubled areas during the year. On February 19, soldiers raided the town of Odioma in Brass Local Council of Bayelsa State following the killing of 12 persons, including four local council chairmen, on February 13. Soldiers killed at least 15 civilians, and burnt many houses. An independent investigation into the incident found that the military acted appropriately in responding to a perceived threat.

In 2003 the government began “Operation Restore Hope,” a joint task force consisted of approximately five thousand army, navy, air force, and mobile police personnel under the command of Army General Zamani, in response to violence in the Niger Delta region (see section 5). During the year task force personnel and militant youths had numerous skirmishes and encounters. Human rights organizations accused the military and police of harassment, extortion, and excessive use of force in the region.

There were several killings by unknown persons that may have been politically motivated. On July 16, unknown gunmen killed PDP politician Alhaji Lateef Olaniyan in Ibadan, Oyo State. Olaniyan was killed after a meeting with prominent Ibadan politician and PDP powerbroker Alhaji Lamidi Adedibu. On September 23, Chief Bola Alphonso, special adviser to Oyo State Governor on Security and Protocol, and four others were charged with Olaniyan’s killing. The trial had not begun by year’s end.

In February at a church crusade in Kogi State, a man confessed to the March 2004 killing of Bassa Local Government Area (LGA) chairman Luke Shigaba. The man was arrested and charged with murder.

There were no known developments in the other reported 2003–2004 cases of politically motivated killings by unknown assailants.

There were no developments in the 2004 cases of electoral violence in Niger, Taraba, or Delta states.

Killings carried out by organized gangs of armed robbers remained common during the year. On May 2, soldiers and street toughs, popularly known as “area boys,” clashed in Lagos. The incident followed the killing of a soldier, allegedly by the area boys, near a military command in the Ikeja suburb of Lagos. Soldiers arrested 62 suspected area boys and remanded them to police for prosecution.

In most southeastern states, state governments supported vigilante groups, the most well-known of which was the “Bakassi Boys,” officially known as the Anambra State Vigilante Service. Like most vigilante groups, the Bakassi Boys sometimes killed suspected criminals rather than turn them over to police. For example on August 6, 32 persons died while being held by the Bakassi Boys. The captors subsequently fled, abandoning 62 other detainees. The detainees had been incarcerated as “armed robbers” and kept in a windowless, poorly ventilated shop for days. Riots erupted when police discovered the dead bodies.

Other organized vigilante groups continued to detain and kill suspected criminals.

Police generally did not have a significant impact upon vigilante groups, and they infrequently detained members of these groups during the year.

There were numerous reports of street mobs apprehending and killing suspected criminals during the year. There were no arrests reported from these mob actions, and there were no developments in cases from previous years. The practice of “necklacing” suspected criminals (placing a gasoline-soaked tire around a victim’s neck or torso and then igniting it to burn the victim to death) by street mobs continued.

Lethal communal (including interethnic, intraethnic, and interreligious) violence occurred at decreased levels from the previous year (see section 2.c.). Sporadic communal violence continued between Tivs, Jukuns, and other tribes in Sokoto, Benue, Taraba, Kogi, Jigawa, Adamawa, Bauchi, Edo, Delta, Plateau, and other states during the year, killing hundreds of persons.

Tensions between members of ethnic groups in the oil-producing areas and employees and contractors of oil companies remained high; however, unlike in the previous year, there were no reported killings.

During the year, fighting between and among rival student affinity groups, commonly known as cults, in institutions of higher learning resulted in killings, rape, personal injury, and destruction of property. In April, rival student cults clashed at the Federal University of Technology in Minna, Niger State, reportedly resulted in the deaths of two students. School authorities closed the university to quell the violence. Authorities reopened the university later in the year.

There was no resolution in the 2004 cases involving deaths in cult clashes.

b. Disappearance.—There were reports of politically motivated disappearances during the year. For example the government still had not responded to a court order to release a Kaduna central mosque imam detained since May 2003. It was not known whether the imam was still alive, and there were no updates on his case during the year.

Hostage situations occurred during the year. On February 17, an Ijaw group captured and held a South Korean employee of Daewoo in Bayelsa State. South Korean embassy and Bayelsa State officials assisted Daewoo in securing the employee’s release the next day.

On September 28, a gang of armed youths kidnapped two Pan Ocean Oil Corporation workers from a bar in the Delta State. Shortly afterwards, the bus transporting the hostages was spotted, and police quickly freed the hostages after a brief gun battle in which the bus driver was killed.

As in previous years, some kidnappings, particularly in the Delta, appear to have been part of longstanding ethnic disputes over resources. Due to limited manpower and resources, police and armed forces rarely were able to confront the perpetrators of these acts, especially in the volatile Delta region.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits such practices and provides for punishment of such abuses, police, military, and security force officers regularly beat protesters, criminal suspects, detainees, and convicted prisoners. Police physically mistreated civilians regularly in attempts to extort money from them. The law prohibits the introduction into trials of evidence and confessions obtained through torture. In some cases, persons died from torture in custody (see section 1.a.).

Different formulations of Shari’a (Islamic law) were in place in 12 northern states (see section 2.c.). Shari’a courts delivered “*hudud*” sentences such as amputation for theft, caning for fornication and public drunkenness, and death by stoning for adultery, but no death sentence were carried out. Because no applicable case had been appealed to the federal level, federal appellate courts had yet to decide whether such punishments violate the constitution (see section 1.e.). Stoning and amputation sentences had been overturned on procedural or evidentiary grounds but had not been challenged on constitutional grounds. Caning is also a punishment under common law in the Northern Region Penal Code and had not been challenged in the courts as a violation of the law. In some cases, convicted persons are allowed to choose to pay a fine or go to jail in place of receiving strokes of the cane. These sentences were usually carried out immediately, while all sentences involving mutilation or death allow 30 days for appeal.

On May 26, a Shari’a appeals court in Kaduna overturned amputation sentences that had been passed in 2003 against six Zaria men who had been accused of stealing a cow and a motorcycle. The appeals court ruled that the lower court had erred in convicting the men solely on the basis of police testimony, without allowing the men to defend themselves. The men also had not had access to legal representation, as required by the Kaduna State Shari’a code.

On May 27, 25-year-old Awwalu Ibrahim received 80 lashes with a horsewhip after confessing to consumption of alcoholic beverages and smoking marijuana.

Several other stoning or amputation sentences were pending appeal or sentence implementation, but no such sentences were carried out during the year.

Security forces tortured persons and used excessive force during the year. For example on March 28 in Ilorin, Kwara State, a policeman attempting to extort a bribe from a truck driver opened fire, wounding an 18-year-old girl who was selling bread nearby.

On November 12, following a minor traffic accident in the parking lot of Abuja International Airport, members of the Kebbi State governor's entourage, which included bodyguards for the governor, beat and robbed a diplomatic driver when he attempted to mediate an argument between the entourage and a diplomat. Although complaints were filed with the Kebbi State government and the federal government, no action was taken against the perpetrators by year's end.

On November 29, police in Abuja attacked, beat, and arrested a diplomatic driver in front of a diplomatic residence, allegedly for driving his vehicle too soon after the vice president's motorcade had passed through the area. Police ordered the driver to appear at a police station the next day, where he was told no charges would be filed against him. No action was taken against the police who attacked him by year's end.

Security forces beat journalists during the year (see sections 2.a. and 2.b.).

There were no developments in the 2004 reported cases of abuses by police.

There were numerous ethnic or communal clashes during the year (see section 5). Police generally lacked the resources to control communal violence.

Vigilante groups such as the Bakassi Boys held detainees in informal detention centers, and detainees died during the year (see section 1.a.).

Prison and Detention Center Conditions.—Prison and detention conditions remained harsh and life threatening. Most prisons were built 70 to 80 years ago and lacked basic facilities. Lack of potable water, inadequate sewage facilities, and severe overcrowding resulted in unhealthy and dangerous sanitary conditions. Some prisons held 200 to 300 percent more persons than their designed capacity. The government acknowledged overcrowding as the main cause of the harsh conditions common in the prison system. Excessively long pretrial detention contributed to the overcrowding (see section 1.d.).

A working group assigned by the attorney general to investigate prison conditions in the country released its report in March. The group found that 64 percent of inmates were detainees awaiting trial, and only 25 percent of those detainees had legal representation. Nearly two-thirds of the country's prisons were over 50 years old. All of the prisons were built of mud brick, and their sewers, food, health care, education, and recreational facilities were well below standard.

Disease was pervasive in the cramped, poorly ventilated facilities, and chronic shortages of medical supplies were reported. Prison inmates were allowed outside their cells for recreation or exercise only irregularly, and many inmates had to provide their own food. Only those with money or whose relatives brought food regularly had sufficient food; petty corruption among prison officials made it difficult for money provided for food to reach prisoners. Poor inmates often relied on handouts from others to survive. Beds or mattresses were not provided to many inmates, forcing them to sleep on concrete floors, often without a blanket. Prison officials, police, and security forces often denied inmates food and medical treatment as a form of punishment or to extort money from them.

Harsh conditions and denial of proper medical treatment contributed to the deaths of numerous prisoners. According to the National Governmental Organizations (NGO) Prisoners Rehabilitation and Welfare Action (PRAWA), dead inmates were promptly buried on the prison compounds, usually without notifications to their families. A nationwide estimate of the number of inmates who died in the country's prisons was difficult to obtain because of poor record keeping by prison officials.

In practice women and juveniles were held with male prisoners, especially in rural areas. The extent of abuse in these conditions was unknown. In most cases, women accused of minor offenses were released on bail; however, women accused of serious offenses were detained. Although the law stipulates children shall not be imprisoned, juvenile offenders were routinely incarcerated along with adult criminals. The Prison Service officially required separation of detainees and convicted prisoners, but in practice the method of confinement depended solely on the capacity of the facility. As a result, detainees often were housed with convicted prisoners.

The government allowed international and domestic NGOs, including PRAWA and the International Committee of the Red Cross (ICRC), regular access to prisons. PRAWA and the ICRC published newsletters on their work. The government admit-

ted that there were problems with its incarceration and rehabilitation programs and worked with groups such as these to address those problems.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, police and security forces continued to employ these practices.

Role of the Police and Security Apparatus.—The National Police Force (NPF) is responsible for law enforcement. Internal security is the duty of the State Security Service (SSS), which reports to the president through the national security advisor. Police were unable to control societal violence on numerous occasions during the year, and the government continued its reliance on the army in some cases. Each NPF state unit was commanded by an assistant inspector general. The law prohibits local and state police forces. The NPF was responsible for human rights abuses and did not noticeably decrease the incidence of violent crime nationwide (see section 1.a.). Corruption was rampant, most often taking the form of bribes at highway checkpoints. Police generally operated with impunity in the apprehension, illegal detention, and sometimes execution of criminal suspects.

Arrest and Detention.—Police and security forces were empowered to arrest without warrant based on reasonable suspicion that a person had committed an offense; they often abused this power. Under the law, police may detain persons for 24 hours before charging them with an offense. The law requires an arresting officer to inform the accused of charges at the time of arrest and to take the accused to a police station for processing within a reasonable amount of time. By law police must provide suspects with the opportunity to engage counsel and post bail. However, suspects routinely were detained without being informed of the charges, denied access to counsel and family members, and denied the opportunity to post bail forailable offenses. Detainees often were kept incommunicado for long periods. Provision of bail often was arbitrary or subject to extrajudicial influence. In many areas, there was no functioning bail system, so suspects were held in investigative detention for sustained periods. Numerous suspects alleged that police demanded payment before they were taken to court to have their cases heard. If family members attended court proceedings, police often demanded additional payment.

Persons who happened to be in the vicinity of a crime when it was committed were sometimes held for interrogation for periods ranging from a few hours to several months. After their release, those detained frequently were asked to repeatedly return for further questioning.

There were several politically motivated arrests during the year. For example on October 6, Mujaheed Asari Dokubo, leader of the Niger Delta People's Volunteer Force, was arraigned on charges of treason.

In the southeast over 600 people were arrested and detained during the year on suspicion of being members of the Movement for the Actualization of the Sovereign State of Biafra (MASSOB), a separatist group espousing Igbo unity and the secession of Igbo states as its prime tenets. Those arrested tended to be youths whose links to MASSOB were unproven, and by mid-year over 70 had been released without charge. Demonstrations in September, following Biafra Day on August 26, claimed a reported 6 lives, although other local reports indicated as many as 200 may have been killed by the police. Ralph Uwazurike, the leader of the group, was arrested in October along with six of his deputies on treason charges. This arrest incited a series of protests, during which the home of Nnamdi Azikiwe, the first post-independence president, was razed and three people died. Protests continued until year-end and caused business and road closures along with up to 20 deaths and an unknown number of other casualties. Human rights activists believed that the crackdown on MASSOB merely gave impoverished non-MASSOB-affiliated, Igbo youths reason to take to the streets and loot shops and homes.

Members of the Oodua People's Congress (OPC), a militant Yoruba group operating in the southwest that claims its objective is to protect the collective rights of the Yoruba within the federation, continued to be arrested. Following several fatal October altercations between OPC factions, rival OPC leaders Dr. Fredrick Fasheun and Chief Gani Adams were detained and charged with managing an illegal organization and abetting mayhem. On December 1, Fasheun, Adams, and four others were charged with treason, illegal weapons possession, and membership in an illegal organization. An Abuja high court denied them bail on December 21, and all six remained in custody at year's end.

The Economic and Financial Crimes Commission (EFCC) embarked on a strong anticorruption campaign during the year, arresting a number of federal, state, and local officials and seizing millions of dollars in assets. Some observers lauded the commission's actions as a centerpiece of the Obasanjo administration's war on corruption, but critics claimed that some EFCC investigations were politically moti-

vated, singling out political opponents of the administration, and that the EFCC did not always follow proper criminal procedure.

The persons charged in the 1996 attempted murder of Alex Ibru had not been tried by year's end (see section 2.d.). Hamza Al Mustapha, one of the defendants and security chief for former military dictator Sani Abacha, was charged in October 2004 with treason, along with two other people, but this case was not brought to trial during the year. Al Mustapha was not permitted to attend hearings on his attempted murder trial, and he and his co-defendants remained in a military prison in Lagos at year's end.

Security forces detained journalists during the year (see section 2.a.).

During the year police arrested demonstrators (see section 2.b.).

There were no updates in the reported 2004 cases of arbitrary arrest and detention.

Lengthy pretrial detention remained a serious problem. Serious backlogs, endemic corruption, and undue political influence continued to hamper the judicial system (see section 1.e.). In March a working group assigned by the attorney general to investigate prison conditions in the country found that 64 percent of inmates were detainees awaiting trial. Multiple adjournments in some cases led to serious delays. Police cited their inability to transport detainees to trial securely on their trial dates as one reason why so many were denied a trial. The National Human Rights Commission (NHRC) reported that some detainees were held because their case files had been lost. Some state governments released inmates detained for significant periods of time without trial.

Amnesty.—On March 22, the Ikeja high court ordered the unconditional release of 100 inmates from the Ikoyi Prison in Lagos. The inmates had been awaiting trial for 6 to 15 years. The Constitutional Rights Project (CRP) filed the motion for release of the prisoners and argued that the periods spent awaiting trial violated constitutional rights to be charged within 48 hours of arrest. CRP representatives confirmed the prisoners were released.

Early in the year the remainder of the 280 Kirikiri Prison inmates, who were ordered released by an Ikorodu high court decision in September 2004, were released.

In early November the Kwara State Chief Justice freed 12 Ilorin prison inmates due to lapses in their trials. In his statement he noted that although the Ilorin prison had a capacity of 121 inmates, the prison held 340 prisoners, 261 of whom were detainees awaiting trial.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, the judicial branch remained susceptible to executive and legislative branch pressure. Political leaders influenced the judiciary, particularly at the state and local levels. Understaffing, underfunding, inefficiency, and corruption continued to prevent the judiciary from functioning adequately. Citizens encountered long delays and frequent requests from judicial officials for small bribes to expedite cases.

The Ministry of Justice implemented strict requirements for levels of education and length of service for judges at the federal and state level; however, there were no requirements or monitoring body for judges at the local level, leading to corruption and miscarriages of justice.

The regular court system is composed of federal and state trial courts, state appeals courts, the federal court of appeal, and the Federal Supreme Court. There are Shari'a and customary (traditional) courts of appeal in states that use those bases for civil or criminal law, including in the Federal Capital Territory (Abuja). Courts of first instance include magistrate or district courts, customary or traditional courts, Shari'a courts, and for some specified cases, the state high courts. The law also provides that the government establish a Federal Shari'a Court of Appeal and Final Court of Appeal, but these courts had not been established by year's end.

The nature of the case usually determined which court had jurisdiction. In principle, customary or Shari'a courts had jurisdiction only if both plaintiff and defendant agreed on this; however, fear of legal costs, delays, distance to alternative venues, community pressure, and individual preference caused many litigants to choose the customary and Shari'a courts over other venues. In some states, cases involving only Muslims must be heard by a Shari'a court.

Other states with Shari'a law permitted Muslims to choose common law courts for criminal cases, but societal pressure forced most Muslims to use the Shari'a court system.

Trial Procedures.—According to the constitution, persons charged with offenses have the right to an expeditious trial. Criminal justice procedures call for trial within three months of arraignment for most categories of crimes; however, there were considerable delays, often stretching to several years, in bringing suspects to trial (see section 1.d.). Juries were not used in trials. Most detainees were poor and could

not afford to pay the costs associated with moving their trials forward, and as a result they remained in prison. Wealthier defendants employed numerous delay tactics and in many cases used bribes to persuade judges to grant numerous continuances. Such practices clogged the court calendar and prevented trials from starting or progressing.

Trials in the regular court system were public and generally respected constitutionally protected individual rights in criminal cases, including a presumption of innocence, and the right to be present, to confront witnesses, to present evidence, and to be represented by legal counsel. While an accused person is entitled to counsel of his choice, there is no law that prevents a trial from going forward without counsel, except for certain offenses such as homicide or other offenses for which the penalty is death. The legal aid act provides for the appointment of counsel in such cases, and trial will not go forward without counsel. However, there was a widespread perception that judges were easily bribed or “settled,” and that litigants could not rely on the courts to render impartial judgments. Many courts were understaffed, and personnel were paid poorly. Judges frequently failed to appear for trials, often because they were pursuing other source of income, and sometimes because of threats against them. In addition, court officials often lacked the proper equipment, training, and motivation to perform their duties, primarily due to inadequate compensation.

In both common law and Shari’a courts, indigent persons without legal representation were more likely to have their sentences carried out immediately upon being sentenced, although all accused persons have the right to appeal. The government instituted a panel of legal scholars in 2003 to draft a uniform Shari’a criminal statute to replace divergent Shari’a statutes adopted by various northern states; however, the panel did not produce its report during the year, and states continued to apply their individual codes.

There were no legal provisions barring women or other groups from testifying in civil court or giving their testimony less weight, but the testimony of women and non-Muslims usually was accorded less weight in Shari’a courts. In violation of mainstream Shari’a jurisprudence, some *Kadis* (Muslim judges) subjected women to harsh sentences for fornication or adultery based solely upon the fact of pregnancy, while men were not convicted without eyewitnesses unless they confessed (see section 1.c.).

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, but authorities at times continued to infringe on these rights. Police raided homes without warrants during the year.

Throughout the year the Federal Capital Development Authority (FCDA) continued to demolish homes and businesses in the Federal Capital Territory (FCT). Thousands of homes in the suburbs of Karmo, Kado, and Lugbe were deemed illegal squatter settlements and bulldozed. In April the FCDA bulldozed some 400 houses, small hotels, and other businesses in the middle-class suburb of Kubwa. On April 27, the House of Representatives passed a resolution ordering an end to the demolitions, claiming that many houses had been approved by the FCDA or previous FCT ministers. The Abuja high court also issued an injunction on the FCT minister to stop further demolition, which he rejected on grounds that the high court only had jurisdiction if there had been a lower court decision. In September businesses in two high rent districts of Abuja were demolished, as was a police station in Lugbe. On November 28, the government announced that about 1,500 houses in Chika had been bulldozed, leaving an estimated 10 thousand people homeless; however, observers estimated that 2 square miles of dense one-story housing had been bulldozed, leaving some 95 percent of the estimated 500 thousand residents homeless. Although the FCT minister announced in November that the demolitions would finish by December, the demolitions continued at year’s end.

On February 3, the FCDA demolished “illegal structures” at the large Wuse Market in Abuja. Hundreds of police officers used tear gas to clear crowds from the market before some 7,500 shops and stands were bulldozed. Vendors were not allowed to remove their inventories before the shops were demolished. No compensation was paid to vendors whose shops and inventories were destroyed.

In March and April the Rivers State government demolished a shanty town in Port Harcourt, leveling hundreds of dwellings and displacing thousands of persons.

Police and security forces continued the practice of placing relatives and friends of wanted suspects in detention without criminal charge to induce suspects to surrender to arrest.

Purdah, the practice of keeping girls and women in seclusion from men outside the family, continued in parts of the country, which restricted the freedom of movement of women.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government at times restricted these rights in practice. While there were numerous private presses that published freely, there were also numerous attacks carried out by security forces during the year. Some journalists practiced self-censorship.

At times persons critical of the government faced reprisals; for example in early May seven university students were arrested and charged with sedition for distributing leaflets critical of Jigawa State Governor Saminu Turaki. The students, members of a group called the New Salvation Movement, accused the governor of “frivolous” foreign travel and failure to develop the state’s educational sector. The students pled not guilty and were detained awaiting trial at year’s end.

There was a large and vibrant private domestic press that was frequently critical of the government. Only one national, government-owned daily newspaper was published, the *New Nigerian*. Several states owned daily or weekly newspapers that also were published in English. These publications tended to be poorly produced, had limited circulation, and required large state subsidies to continue operating. By year’s end there were more than 14 major daily newspapers, 6 weekly newsmagazines, and several sensational evening newspapers and tabloid publications.

Because newspapers and television were relatively expensive and literacy levels were low, radio remained the most important medium of mass communication and information. The government owned and controlled most of the electronic media. There was a government-owned national radio broadcaster, the Federal Radio Corporation of Nigeria, which broadcast in English, Hausa, Yoruba, Igbo, and other languages; and 51 state radio stations, which broadcast in English and local languages. The National Broadcasting Commission (NBC) was the body responsible for the de-regulation and monitoring of the broadcast media. There were nearly a dozen private radio stations operating during the year. The government also operated the Voice of Nigeria that broadcasted internally, to neighboring West African countries, and to South Africa.

The National Television Station, NTA, was federally owned. Thirty states also operated television stations. There were nine privately owned television stations that broadcast domestic news and political commentary. There were seven private satellite television services. The law requires that local television stations limit programming from other countries to 40 percent and restricted the foreign content of satellite broadcasting to 20 percent; however, the government did not restrict access to, or reception of, international cable or satellite television.

International broadcasters, principally Voice of America and BBC, as well as Deutsche Welle and others, broadcast in English and Hausa and were an important source of news in the country.

In April 2004 the NBC banned live broadcast of foreign news and programs. The ban continued throughout the year, and the minister of information announced that the government had no intention of lifting the ban.

Security forces beat journalists on several occasions during the year. For example on January 4, at an emergency meeting of the National Executive Council of the ruling PDP, police beat 11 journalists and broke cameras while an assistant inspector general of police watched; a *Nigerian Tribune* journalist was hospitalized. Police claimed they were acting on orders of PDP officials not to allow journalists to cover the closed meeting.

On March 4, members of the Kick Against Indiscipline (KAI) paramilitary group detained and beat a reporter/photographer for *The Punch* newspaper in Lagos. The reporter was photographing KAI members stopping jaywalkers on a Lagos highway. A KAI spokesman acknowledged the incident but claimed the reporter was beaten by an individual who was not a KAI member. The Lagos State government had launched the KAI program in 2003 with the goal of cleaning up Lagos by punishing wrongdoers.

On December 1 in Lagos, police accompanying the Lagos State governor beat a reporter for the *New Age* newspaper and smashed her digital camera as she was taking photographs of police forcefully breaking up a demonstration at the Lagos State Secretariat. A deputy superintendent of police apologized for the beating, but suggested that the demonstrators, not the police, should buy the reporter a new camera.

Security forces also detained journalists during the year. In June following the publication of an article that reported a Kogi State police commissioner’s humilia-

tion by armed bandits, Kogi State police occupied the headquarters of the Nigerian Union of Journalists (NUJ) in the state capital, Lokoja, and harassed, intimidated, and arrested journalists. The police left the NUJ headquarters after three days, following negotiations with the NUJ National Secretariat, and released all arrested journalists without charges.

On January 19, Rivers State police arrested the publisher of the Port Harcourt weekly magazine *National Network* for publishing negative reports regarding the Rivers State police commissioner. Police released the publisher a few days later without charges.

On January 20, SSS agents arrested the Enugu State chairman of the Newspapers Vendors' Association of Nigeria, along with two newspaper vendors, for selling copies of the tabloid newspaper *Eastern Pilot*, which carried reports of "the emergence of a new Biafra nation." The three were interrogated at SSS headquarters, then released the same day. An SSS spokesman defended the arrests, claiming that *Eastern Pilot* was a "subversive" publication.

In March police arrested two Australian journalists when they asked permission to film the demolition of a shanty town. After several hours of being held without charge, police released them.

On April 8, military authorities detained the chief correspondent of the *Associated Press* in the country for questioning. Authorities told the correspondent he was detained for entering a military zone without a permit. The authorities released the correspondent after several hours.

There were no further known developments in the reported 2004 cases.

The government suspended radio stations or confiscated newspapers during the year. For example on February 10, SSS agents in Onitsha, Anambra State, confiscated numerous copies of magazines and newspapers with articles regarding MASSOB. Members of the Newspapers Distributors and Agents Association held a rally in Onitsha to protest against SSS intimidation of the newspaper vendors.

The NBC suspended for one day the broadcast license of DAAR Communications, which operates African Independent Television and Ray Power Radio, for alleged "unauthorized and unprofessional" reporting following the crash of Bellview flight 210 on October 22. Most observers felt DAAR was being penalized for finding the crash site when authorities could not. After criticism from President Obasanjo and from the minister of information, the action was quickly rescinded.

Editors reported that government security officers sometimes visited or called to demand information regarding a story or source. Local NGOs suggested that newspaper editors and owners underreported actual human rights abuses and killings due in part to self-censorship. State broadcasters and journalists remained important tools for governors; these officials used the state-owned media to showcase the state's accomplishments and to promote their own political goals.

Libel is criminalized in the country and requires defendants to prove the truth of opinion or value judgment contained in news reports or commentaries. This limits the circumstances in which media defendants rely on the defense of "fair comment on matters of public interest", and restricts the right to freedom of expression. Criminal Code penalties ranged from one to seven years' imprisonment (seven years, if the libelous material was published to blackmail). The Criminal Code and other federal Laws critical provides the provisions of libel laws.

In October SSS agents in Port Harcourt detained Chief Owei Sikpi, publisher of the *Weekly Star* newspaper, for alleged libel against the federal government and the Rivers State government. The Rivers State prosecutor pleaded with a Port Harcourt high court to deny bail to Sikpi because of "the weight of the offense." Sikpi remained in custody at year's end.

On December 19, SSS agents arrested an editor and a presenter at privately-owned radio station Rhythm FM for falsely reporting that a bridge outside Port Harcourt had collapsed. They were charged with intent to cause public panic and fear, and remained in custody at year's end.

There were no government restrictions on the Internet. State governments continued to restrict academic freedom by controlling curriculum at all levels including mandating religious instruction. Student groups alleged that numerous strikes, inadequate facilities, and the rise of cultism (or gangs) on campuses, particularly in the south, continued to hamper educational progress.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right for progovernment rallies, while opposition gatherings continued to be restricted. In areas that experienced communal violence, police and security forces permitted public meetings and demonstrations on a case-by-case basis.

In June an Abuja high court struck down the 1990 Public Order Act that required a police permit to be issued for all public rallies and processions. Security forces had regularly suppressed opposition rallies, citing the failure to obtain police permits, although rallies in support of the ruling party were normally allowed. Although the acting inspector general of police immediately announced that the police would appeal the ruling, he also stated the police would respect the court's injunction prohibiting police from interfering with peaceful rallies. After the ruling, police generally did not interfere with rallies, but in December in Lagos police fired tear gas at a rally of women protesting December 11 plane crash that killed many children.

The government occasionally banned gatherings whose political, ethnic, or religious nature might lead to unrest. Open-air religious services held away from places of worship remained prohibited in many states due to fears that they might heighten inter-religious tensions. The Kaduna State government ban on processions, rallies, demonstrations, and meetings in public places still was enforced on a case-by-case basis. A security forces committee ban on all political, cultural, and religious meetings in Plateau State continued to be implemented on an ad hoc basis.

On May 14, a rally in Jos, Plateau State, to announce the presidential campaign of Zamfara State Governor Ahmed Sani was cancelled by police for "security reasons."

Security forces forcibly dispersed demonstrations during the year. In February soldiers from the joint task force used excessive force against protesters at the Escravos oil terminal in Delta State. According to witnesses, security personnel fired tear gas, then live ammunition to disperse a crowd of approximately 300 protesters. At least 30 persons were injured, and at least one demonstrator was killed. There was no government investigation or prosecution of those responsible by year's end.

On May 2, in Yauri town, Kebbi State, police fired into a crowd of protesters, killing four persons. Demonstrators had gathered at the local emir's palace to protest police involvement in armed robberies; residents had apprehended several armed robbers and turned them over to the police, only to find out that the robbers were themselves police officers. No action was taken against the police who fired into the crowd.

No action was taken against security forces who killed or injured persons while forcibly dispersing protesters in 2004 or 2003.

Freedom of Association.—The law provides for the right to associate freely with other persons in political parties, trade unions, or special interest associations and the government generally respected this right in practice. The law allows the free formation of political parties. There were 30 parties registered with the Independent National Electoral Commission during the year.

c. Freedom of Religion.—The law provides for freedom of religion, and while the federal government generally respected religious freedom; there were instances in which limits were placed on religious activity to address security and public safety concerns.

The law prohibits state and local governments from adopting an official religion. Some Christians alleged that Islam has been adopted as a de facto state religion in several northern states, citing criminal law aspects of Shari'a and the continued use of state resources to fund the construction of mosques, the teaching of Kadis, and pilgrimages to Mecca (*hajj*). However, several states, including northern states, used government revenues to fund Christian pilgrimages to Jerusalem. In general states, whether dominated by Christians or Muslims, favored the faith practiced by the majority of residents.

The law provides that states may elect to use Islamic (Shari'a) laws and courts. There were 12 northern states that have adopted at least parts of Shari'a—Sokoto, Kebbi, Niger, Kano, Katsina, Kaduna, Jigawa, Yobe, Bauchi, Borno, Zamfara, and Gombe. Adherence to Shari'a provisions is compulsory for Muslims in some states and optional in others. Non-Muslims are not required in any state to submit to Shari'a jurisdiction, although in some states they have the option, which may work to a defendant's advantage when the penalty under Shari'a is less severe than under civil law.

Although several northern state governments continued to ban public proselytizing to avoid ethno-religious violence, some proselytizing groups remained active despite these formal bans, which generally were enforced on a case-by-case basis.

The law does not require students to receive instruction in a religion other than their own; however, the Ministry of Education requires public school students throughout the country to undergo either Islamic or Christian religious instruction. State authorities claimed that students were permitted not to attend classes taught in a religion other than their own, and that students may request a teacher of their own religion to provide alternative instruction. However, there were often no teach-

ers of “Christian Religious Knowledge” in many northern schools or of Muslim Religious Knowledge” in some southern schools.

No further action was taken in the 2003 incident in which members of the Moslem Students of Nigeria organization were charged with public disturbance after they invaded primary and secondary schools in Oyo State.

Although distribution of religious publications was generally unrestricted, the government sporadically enforced a ban against broadcasting religious advertisements on state-owned radio and television stations.

Although the expanded Shari’a technically does not apply to non-Muslims, the non-Muslim minority has been affected by certain social provisions of Shari’a, such as the separation of the sexes in public schools, and health and transportation services. Many social provisions associated with Shari’a have roots in the country’s pre-Islamic societies and were in practice before the states adopted Shari’a. Although most states have not criminalized alcohol consumption by non-Muslims, in May 2004 Kano State announced that non-Muslims would be fined approximately \$380 (50,000 naira) or sentenced up to a year in prison for drinking or selling alcohol in certain public places. There were no reports of non-Muslims in Kano State being penalized under this restriction during the year. Some states continued to offer only gender-segregated transportation (see section 5).

A number of states with expanded Shari’a have long sanctioned private vigilante Shari’a enforcement groups (*hisbah*); in some cases these groups had authority to make arrests. The *hisbah* groups were not very active during the year, although they often served as traffic wardens, especially in Kano.

The Nigeria Legal Aid Council agreed to appeal 30 Shari’a convictions and death sentences in Bauchi State. In one case, an 18-year-old man, Saleh Dabo, alleged that police told him he could plead guilty to rape, and he would be released; instead, a court sentenced him to death by stoning for adultery, even though he is not married. The appeal had not yet been heard.

There are numerous Shari’a cases pending appeal or implementation of sentence, including pending amputation and stoning sentences in Jigawa, Bauchi, Niger, Kano, and Zamfara states. Many of these cases have been delayed continuously for various reasons.

The government continued to hold an imam from the Kaduna central Mosque detained in 2003, despite an order from the Kaduna State court ordering his release.

In December 2004 at a major university in Bauchi State, a group of Muslim students abducted and killed the head of a Christian campus organization in retaliation for what they considered to be insults to Islam by Christian students. As tensions grew and some property was vandalized, authorities responded by closing the university and a nearby polytechnic school and by establishing an interfaith dialogue. Both the university and the polytechnic school reopened during the year, and while tension remained between the campus Christian and Muslim communities, there was no further violence during the year. There were no arrests for the killing.

Societal Abuses and Discrimination.—The law prohibits religious discrimination in employment and other practices; however, private businesses frequently discriminated on the basis of religion or ethnicity in their hiring practices and purchasing patterns. In nearly all states, ethnic rivalries between “indigenous” and “settlers” led to some societal discrimination against minority ethnic and religious groups.

Religious differences often mirrored regional and ethnic differences. For example persons in the North and in parts of the Middle Belt were overwhelmingly Muslim and from the large Hausa and Fulani ethnic groups that tended to dominate these areas. Many southern ethnic groups were predominantly Christian. In many areas of the Middle Belt, Muslim Fulani tended to be pastoralists, while the Muslim Hausa and most Christian ethnic groups tended to be farmers or to work in urban areas. Consequently ethnic, regional, economic, and land use competition and confrontations often coincided with religious differences between the competing groups (see section 5). It was not unusual for two ethnic groups with a long history of conflict to have adopted different religions, with the effect of exacerbating existing tensions.

In early February in Numan, Adamawa State, the site of numerous previous violent clashes, police killed at least 2 persons and arrested at least 30 others who were protesting the appointment of the new Bachama ethnic group traditional leader. The previous traditional leader had been removed by the state governor for his role in inciting violence in June 2004. When the governor appointed a new Bachama traditional leader, many Bachamas protested that the new ruler had no mandate to lead them.

There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and while the government generally respected them police occasionally restricted freedom of movement by enforcing curfews in areas experiencing ethno-religious violence.

Law enforcement agencies used roadblocks and checkpoints to search for criminals and to prevent persons traveling from areas of conflict to other parts of the country where their presence might instigate retaliatory violence. There were no reports that government officials restricted mass movements of individuals fleeing ethnic unrest. Security and law enforcement officials continued to use excessive force at checkpoints and roadblocks and engage in extortion and violence (see section 1.a.).

The law prohibits the expulsion of citizens, and the government did not use forced exile. Ismaila Gwarzo, national security advisor to former president Abacha, remained restricted to his hometown in Kano State at year's end.

Internally Displaced Persons (IDPs).—During periods of societal violence, numerous persons were displaced from their places of residence (see section 5). According to Amnesty International (AI), tens of thousands of persons remained displaced in the Niger Delta region during the year due to continued ethnic and communal conflict.

Protection of Refugees.—The law provides for the granting of asylum and refugee status to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. Although the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum, the government expelled three citizens of Equatorial Guinea, where they were then imprisoned. The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers through the National Commission for Refugees (NCR), its federal commissioner, and the National Emergency Management Agency. The Eligibility Committee (on which the UNHCR had observer status), governed the granting of refugee status, asylum, and resettlement, and reviewed refugee and resettlement applications. Of the 1,476 asylum cases during the year, 803 cases were approved and granted refugee status, 512 cases were pending, and 161 were denied.

There were an estimated 8,737 recognized refugees living in the country. During the year, 239 refugees were voluntarily repatriated. Remaining refugees included persons from Sierra Leone, Liberia, Chad, Rwanda, Sudan, Cameroon, Cote d'Ivoire, and the Democratic Republic of the Congo. Refugee camps were generally overcrowded, and refugees' requests for police and judicial assistance generally little less attention. The NCR managed the camps and had 10 staff members based in the camps.

Although the government agreed in 2003 to provide resettlement opportunities, no formal programs had been initiated.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and provided it to 24 persons during the year.

The UNHCR estimated that 6 thousand refugees, mostly ethnic Fulani herders, remained in Cameroon at year's end. Following the April 14 signing of the Tripartite Agreement between the governments of Nigeria, Cameroon, and the UNHCR, 6,979 refugees returned to the country through June 2, bringing the total number of returnees to 7,290.

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 through periodic, free, and fair elections held on the basis of universal suffrage; however, citizens' right to change their government was abridged during the most recent national elections in 2003. The political system remained in transition. The three branches of the government acted somewhat independently, although the executive branch dominated the other two branches.

Elections and Political Participation.—The 2003 legislative elections were marred by widespread fraud. The turnout was significantly low for the 2003 presidential and gubernatorial elections, which were also marred by widespread fraud. A total of 31 parties participated in the April 2003 national assembly elections, and 19 parties had candidates in the presidential election. The European Union observer mission categorized the quality of the presidential election as extremely poor, stating that in the worst six states, elections effectively were not held, and in the rest of the country the elections were seriously marred. All major independent observer

groups, international and domestic, issued negative statements about the fairness of elections and cited problems throughout the country. Problems included ballot stuffing, intentional miscounting, underage voting, multiple voting, intimidation, and violence, including political killings. Although all parties participated in the misconduct, observers cited violations by the ruling PDP significantly more often than those other parties.

In December 2004 an election tribunal voided part of the 2003 presidential election results, including the entire result of Ogun State, President Obasanjo's home state, and found that there was significant rigging, but by a 3 to 1 vote declined to overturn the election. The opposition appealed the verdict to the Supreme Court, and in July that court not only upheld the election results, finding that the 2003 election had been "substantially" in compliance with the election law, but the court also reinstated the results that had been voided by the tribunal. The justice delivering the dissenting opinion in the appeals court was dismissed from the judiciary and was living without retirement benefits in the east. On August 12, following a two-year court battle, the Anambra State Elections Tribunal overturned the 2003 gubernatorial election results and declared the All People's Grand Alliance candidate Peter Obi the winner. The previously-recognized winner, Chris Ngige, who had run as a member of the ruling PDP but was later expelled from the party, appealed the ruling and refused to leave office pending his appeal.

Members of the ruling PDP had limits imposed on their ability to choose their party's leadership. In January PDP Chairman Audu Ogbeh was forced to resign, reportedly at gunpoint, and President Obasanjo appointed a member of his inner circle as Ogbeh's successor. In October the PDP contravened its own constitution and an Abuja high court order by conducting a nonelective nomination process for party office holders starting at the local level. Some PDP members were selectively denied new party membership cards and were excluded from the nominating conventions. The conventions themselves were limited to affirming predetermined slates of individuals to leadership positions, rather than holding an open and elective nomination process.

Although there were more than 500 ministerial and national assembly positions, there were only 3 female ministers, 3 female senators, and 12 female representatives.

The law mandates that the composition of the federal, state, and local governments and their agencies, as well as the conduct of their affairs, reflect the diverse character of the country to promote national unity and loyalty. The government was an example of this diversity: President Obasanjo is a Yoruba from the southwest, the vice president is a Fulani from the northeast, and the senate president is an Igbo from the southeast. The government also attempted to balance other key positions among the different regions and ethnic groups. The Senate used its oversight role to reject many of President Obasanjo's ambassadorial appointments and insisted on at least three appointments from each state. The political parties also engaged in "zoning," a practice of rotating positions within the party among the different regions and ethnic groups to ensure that each region was given adequate representation. Despite this effort, with more than 250 ethnic groups, it was difficult to ensure representation of every group in the government (see section 5).

Government Corruption and Transparency.—Corruption was massive, widespread, and pervasive, at all levels of the government and society (see section 1.e.).

On February 17, Representative Haruna Yerima of Borno State claimed publicly that many of his national assembly colleagues engaged in corrupt practices. Yerima claimed that some members extorted money from government ministers and heads of parastatals to get their budgets passed, and accused all members of accepting free phone cards each month worth \$56 (7,500 naira) from a prominent mobile phone provider. The House of Representatives suspended Yerima for one month for speaking out against his colleagues. The other representatives continued to receive free phone cards.

In February the Kwara State Assembly suspended two LGA council treasurers and disciplined two council chairmen for failing to account for state funds and for impeding an audit of council expenses. It also asked another LGA chairman to repay half of the \$22,500 (3.08 million naira) spent on a ceremony to mark his first 100 days in office.

On May 31, the Senate approved a code of ethics but expunged a rule from the draft code stating that senators and their staff shall not accept money or any gift meant for inducement in the course of performance of their official duties. Several senators commented that the practice of gift-giving is "enshrined in Nigerian culture."

On May 31, assistant superintendent of police at Force Headquarters in Abuja, Marius Ameh, was arrested and charged with receiving a \$75 (10 thousand naira)

bribe to release a detainee on bail. Ameh was also charged with pocketing the \$38 (5 thousand naira) bail money.

During the year the EFCC arrested or detained numerous public servants at the state government level for embezzlement. For example on the weekend of June 4–5, the EFCC arrested 27 Bauchi State government employees for their role in embezzling \$2.1 million (281 million naira) of state government funds. On June 7, seven more persons were arrested.

Also on the weekend of June 4–5, the EFCC arrested five Kebbi State government employees, including the state commissioner for agriculture, for embezzling up to \$22 million (3 billion naira) of state government funds through schemes involving fake vouchers and the private sale of state bonds.

In September Bayelsa State Governor Diepreye Alamieyeseigha was arrested in the United Kingdom (UK) and charged with money laundering. Alamieyeseigha jumped bail and returned to the country on November 21. On November 8, the governor's wife, Margaret Alamieyeseigha, was also arrested in London on money laundering charges and was released on bail pending her court date in the United Kingdom. The Bayelsa State House of Assembly impeached Alamieyeseigha and removed him from office. Alamieyeseigha appeared in a Nigerian court on December 20–22 for pretrial motions. Neither his trial in Nigeria nor his wife's in the UK had begun by year's end.

The 2003 prosecution of the former labor minister and other senior government officials on corruption charges had not been completed by year's end.

There were no laws providing for access to information, and the government provided limited access in practice.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. Criticism of the government's human rights record was abundant in various media. Human rights activists reported that their interactions with the federal government had improved, but should be more frequent. The government selectively included some human rights groups in the National Political Reform Conference. However, the environment for interaction was still tense, and human rights groups were reluctant to form a close relationship with the government.

Numerous domestic and international NGOs were active in the country. Significant NGOs included AI Nigeria, the Campaign for Democracy, the Center for Law Enforcement Education (CLEEN), the Committee for the Defense of Human Rights (CDHR), Women Trafficking and Child Labor Eradication Foundation (WOTCLEF), and the Women's Consortium of Nigeria (WOCON). The NGOs were generally independent of the government, although some, such as WOTCLEF, which the vice president's wife chaired, had close government ties.

The government met with NGOs, and civil society organizations facilitated government/NGO communications.

CLEEN won its September 2004 lawsuit against the government over the 2002 seizure of its human rights reports and was awarded \$69,230 (9 million naira). However, the Nigerian Customs Service neither paid the award nor returned the seized books. CLEEN announced that it would file an additional suit in 2006 seeking the court's permission to auction customs assets to pay the damages.

International NGOs actively addressed human rights issues in the country during the year. The ICRC in Abuja and Lagos under the direction of a regional delegate, focused on training prison officials on human rights, sanitation, and prisoner health (see section 1.c.). AI released reports on continuing human rights abuses in the Niger Delta and violence against women. Human Rights Watch also reported on Niger Delta violence and abuses, along with religious and communal violence in the north and abuses committed by police.

The NHRC, which the government tasked with monitoring and protecting human rights, strove to improve its credibility with the general public and NGO community as an independent monitoring body. The NHRC had zonal affiliates in each of the country's six political regions. Since its inception, the NHRC's operations have been limited by insufficient funding. The commission also lacked judicial authority and could only make nonbinding recommendations to the government.

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

The law prohibits discrimination based on community, place of origin, ethnic group, sex, religion, or political opinion; however, customary and religious discrimination against women persisted, societal discrimination on the basis of both religion

and ethnicity remained widespread, and ethnic and regional tensions continued to contribute to serious violence both between citizens and the security forces and between groups of citizens.

Women.—Domestic violence was widespread and often considered socially acceptable. Reports of spousal abuse were common, especially those of wife beating. Police normally did not intervene in domestic disputes, which seldom were discussed publicly. The Penal Code permits husbands to use physical means to chastise their wives as long as it does not result in “grievous harm,” which is defined as loss of sight, hearing, power of speech, facial disfigurement, or life-threatening injuries. In more traditional areas of the country, courts and police were reluctant to intervene to protect women who formally accused their husbands of abuse if the level of alleged abuse did not exceed customary norms in the areas. According to the 2003 Nigeria Demographic and Health Survey (NDHS), 64.5 percent of women and 61.3 percent of men agreed that a husband was justified in hitting or beating his wife for at least one of six specified reasons, including burning food and not cooking on time.

AI reported that an estimated two-thirds of the women in certain communities in Lagos State experienced physical, sexual, or psychological violence in the family, with husbands, partners, and fathers responsible for most of the violence. Discriminatory laws exacerbated the problem. For example the penalty for indecent assault on a man is more severe than the penalty for the same offense against a woman.

Rape was against the law and convictions carried substantial penalties, but societal pressures reduced both the percentage of rapes reported and the penalties imposed for conviction. Rape and sexual harassment continued to be problems. There were no statutes against sexual harassment, but violent forms were adjudicated under assault statutes. The practice of demanding sexual favors in exchange for employment or university grades continued to be common, and rape continued to be epidemic in universities.

The NDHS estimated the FGM rate at approximately 19 percent among the country’s female population, and the incidence has declined steadily in the past 15 years. While practiced in all parts of the country, FGM was much more prevalent in the south. Women from northern states were less likely to undergo the severe type of FGM known as infibulation. The age at which women and girls were subjected to the practice varied from the first week of life until after a woman delivers her first child; however, three-quarters of the NDHS 2003 survey respondents who had undergone FGM had the procedure before their first birthday. According to the survey, the principal perceived “benefits” of FGM include maintaining chastity/virginity before marriage, giving the victim better marriage prospects, providing more sexual pleasure for men (primarily according to male respondents), and aiding safe childbirth.

The federal government publicly opposed FGM but took no legal action to curb the practice. Because of the considerable problems that anti-FGM groups faced at the federal level, most refocused their energies on combating the practice at the state and LGA levels. Bayelsa, Edo, Ogun, Cross River, Osun, and Rivers States banned FGM. However, once a state legislature criminalized FGM, NGOs found that they had to convince the LGA authorities that state laws were applicable in their districts. The Ministry of Health, women’s groups, and many NGOs sponsored public awareness projects to educate communities about the health hazards of FGM. They worked to eradicate the practice, but they had limited contact with health care workers on the medical effects of FGM.

On March 21, Osun State enacted a law aimed at punishing those who encourage FGM. The law makes it a punishable offense to remove any part of a sexual organ from a woman or a girl, except for medical reasons approved by a doctor. According to the provisions of the law, an offender shall be any female who offers herself for FGM; any person who coerces, entices, or induces any female to undergo FGM; and any person who other than for medical reasons performs an operation removing part of a woman or girl’s sexual organs. The law provides a \$385 (50 thousand) fine or one year’s imprisonment or both for a first offense, with doubled penalties for a second conviction.

Prostitution was a serious social problem, particularly in urban areas. There are statutes at both the federal and state levels criminalizing prostitution. All states that have adopted Shari’a have criminalized prostitution, and this ban was enforced with varying degrees of success. The police frequently use the anti-prostitution statutes as tools for harassment, arresting offenders and holding them until they pay a bribe, but rarely prosecuting the cases in court.

Trafficking in women was a problem (see section 5, Trafficking).

In some parts of the country, women continued to be harassed for social and religious reasons. Purdah continued in parts of the far north (see section 1.f.).

Women also experienced considerable discrimination. While there are no laws barring women from particular fields of employment, women often experienced discrimination under customary and religious practices. The Nigerian NGOs Coalition expressed concern regarding continued discrimination against women in the private sector, particularly in access to employment, promotion to higher professional positions, and salary equality. There were credible reports that several businesses operated with a “get pregnant, get fired” policy. Women remained underrepresented in the formal sector but played an active and vital role in the country’s informal economy. While the number of women employed in the business sector increased every year, women did not receive equal pay for equal work and often found it extremely difficult to acquire commercial credit or to obtain tax deductions or rebates as heads of households. Unmarried women in particular endured many forms of discrimination.

The NDHS survey showed that women had significant control over the income they generate (73.4 percent made sole decisions on how such income is to be used), but that men largely controlled decisions regarding such problems as children’s and women’s own health care.

While some women made considerable individual progress both in the academic and business world, women overall remained underprivileged. Although women were not legally barred from owning land, under some customary land tenure systems only men could own land, and women could gain access to land only through marriage or family. In addition, many customary practices did not recognize a woman’s right to inherit her husband’s property, and many widows were rendered destitute when their in-laws took virtually all of the deceased husband’s property. Widows were subjected to unfavorable conditions as a result of discriminatory traditional customs and economic deprivation. “Confinement” was the most common rite of deprivation to which widows were subjected, and it occurred predominately in the east. Confined widows were under restrictions for as long as one year and usually were required to shave their heads and dress in black. In other areas, a widow was considered a part of her husband’s property, to be “inherited” by his family. Shari’a personal law protects widows’ property rights, and an NGO reported that many women succeeded in protecting their rights in Shari’a courts.

Polygyny continued to be practiced widely among many ethnic and religious groups.

Women were affected to varying degrees by Shari’a in the 12 northern states. In Zamfara State, local governments enforced laws requiring the separation of Muslim men and women in transportation and health care. Kano State announced in May that commercial motorcycle taxis could no longer take women as passengers because, it claimed, the transport of women on motorcycles was contrary to Shari’a. The state government did not cite any specific Koranic references in announcing the ban. Both Muslim and non-Muslim women were affected by the ban.

The testimony of women was not given the same weight as that of men in many criminal courts (see section 1.e.).

Children.—The government seldom enforced even the inadequate laws designed to protect the rights of children. Public schools continued to be inadequate, and limited facilities precluded access to education for many children. The law calls for the government, “when practical,” to provide free, compulsory, and universal primary education; however, compulsory primary education rarely was provided. A 2004 UN Children’s Fund (UNICEF) survey showed primary school enrollment at 74 percent for males and 60 percent for females, with 97 percent of enrollees completing fifth grade. Secondary school enrollment was considerably lower, at 32 percent for males and 26 percent for females. In many parts of the country, girls were discriminated against in access to education for social and economic reasons. When economic hardship restricted families’ ability to send girls to school, many girls were directed into activities such as domestic work, trading, and street vending. Many families favored boys over girls in deciding which children to enroll in secondary and elementary schools. The literacy rate for men was 58 percent but only 41 percent for women.

While most schools in the north traditionally separated children by gender, the law required it in Zamfara, Sokoto, and Kebbi state schools (see section 2.c.).

UNICEF collaborated with the government on a Strategy for Acceleration of Girls Education in the country to produce a smaller gap between boys’ and girls’ access to education.

Cases of child abuse, abandoned infants, child prostitution, and physically harmful child labor practices remained common throughout the country (see sections 5, Trafficking, and 6.d.). The government criticized child abuse and neglect but did not undertake any significant measures to stop customary practices harmful to children, such as the sale of young girls into marriage. There were credible reports that poor families sold their daughters into marriage as a means to supplement their incomes.

Young girls sometimes were forced into marriage as soon as they reached puberty, regardless of age, to prevent the "indecent" associated with premarital sex or for other cultural and religious reasons. Human rights groups reported an increase in sexual assaults and rapes of young girls, especially in the north, and attributed the increase to a fear of AIDS and a resulting desire for young virgins free of AIDS or other sexually transmitted disease.

Numerous children were homeless and lived on the streets. According to the Consortium for Street Children there were no known statistics on numbers of street children in the country. Major factors that caused children to turn to the streets included instability in the home, poverty, hunger, abuse and violence by parents, and displacement caused by clashes in the community. AIDS also had a tremendous impact on the numbers of orphaned street children.

FGM was commonly performed on girls in all parts of the country (see section 5, Women).

Trafficking in Persons.—Although the law prohibits trafficking in persons, persons were trafficked to, from, and within the country.

The law prohibits human trafficking and provides for penalties including monetary fines, imprisonment, deportation, forfeiture of assets and passport, and liability for compensation to victims in civil proceedings. Imprisonment terms range from 12 months to life, while fines range from \$375 (50 thousand naira) to \$1,500 (200 thousand naira).

The National Agency for Prohibition of Trafficking in Persons (NAPTIP) bears primary responsibility for combating trafficking. The NPF and the Nigerian Immigration Service (NIS) also have antitrafficking units. In addition, the president had a special assistant for human trafficking and child labor.

Enforcement efforts continued to improve during the year. The government took several steps during the year to correct the issue of inadequate resources and tripled its NAPTIP funding. The number of trafficking cases investigated and prosecuted during the year increased, and record keeping had improved as NAPTIP, NPF, and NIS roles were more clearly defined through a series of NAPTIP-sponsored meetings, conferences, training sessions, and networking events.

Preliminary data indicated that NAPTIP investigated 75 new cases during the year; many of the cases were pending at year's end. NAPTIP made arrests in 25 cases, 15 of which went to court, and 2 additional cases were pending at year's end. Four additional convictions under the antitrafficking law were delivered during the year from cases in Kano and Ogun States, and the verdict was pending in a case in Benin State. In the Ogun case, a Ghanaian and a Togolese were convicted on charges of pandering. The men were sentenced to a minimum of seven years' imprisonment.

In the most prominent case of the year, 40 trafficking victims, involving young girls between the ages of 7 and 19, were recovered. All of the victims were returned to their homes and to school, or were given training in various skills. The trafficker was charged and a trial was pending at year's end.

The NPF Antitrafficking Task Force was established and staffed 22 units in states with the worst trafficking problems.

The government increased collaboration on investigations with concerned law enforcement agencies in France, Spain, Italy, and Benin. In June the government signed a memorandum of understanding with Benin to improve coordination of law enforcement and victim treatment activities.

The country was a source, transit, and destination country for trafficked persons during the year. No government or NGO estimates on the extent of trafficking were available, but the magnitude of the problem was believed to be significant. This was based on several factors, including the number of deportees returned to the country and reports of Nigerians stranded along trafficking routes, particularly in North African countries. The International Labor Organization (ILO) estimated that 40 percent of child street peddlers were trafficking victims.

Nigerians were trafficked to Europe, the Middle East, and other countries in Africa for the purposes of forced labor, domestic servitude, and sexual exploitation. Girls and women were trafficked for forced prostitution to Italy, France, Spain, the Netherlands, Cote d'Ivoire, and Benin. Children were trafficked for involuntary domestic and agricultural labor and street peddling within the country and to countries in West and Central Africa. Both women and children were trafficked to Saudi Arabia. The country was a destination country for children trafficked for forced labor from other West African countries, primarily Benin.

Women and children were most at risk of being trafficked. Boys were trafficked primarily to work as forced bondage laborers, street peddlers, and beggars, while girls were trafficked for domestic service, street peddling, and commercial sexual exploitation. Trafficking in children, and to a lesser extent in women, occurred within

the country's borders. Children in rural areas were trafficked to urban centers to work as domestics, street peddlers, merchant traders, and beggars.

The United Nations Office of Drugs and Crime (UNODC) reported that individual criminals and organized criminal groups conducted trafficking, often involving relatives or other persons already known to the victims. Traffickers employed various methods during the year. Many were organized into specialties, such as document and passport forgery, recruitment, and transportation. To recruit young women, traffickers often made false promises of legitimate work outside the country. Traffickers also deceived child victims and their parents with promises of education, training, and salary payments. Once away from their families, children were subjected to harsh treatment and intimidation. Traffickers subjected victims to debt bondage, particularly victims forced into prostitution. In some cases, traffickers employed practitioners of traditional magic, or juju, to threaten victims with curses to procure their silence. NAPTIP estimated that 90 percent of the girls trafficked through Benin routes were threatened by juju practitioners. Victims were transported by air, land, and sea. Established land routes to Europe transited Benin, Togo, Ghana, Cote d'Ivoire, Guinea, Mali, Niger, and Morocco.

At the institutional level, government authorities did not facilitate or condone trafficking; however, reports continued to surface from informants and foreign officials that law enforcement officers and individuals in the immigration and airport authorities collaborated in trafficking across the country's borders. The majority of instances were attributed to ignorance of the trafficking law and difficulties overcoming traditional practices. The law provides punitive measures for officials who aid or abet trafficking; however, during the year NAPTIP and NPF found no evidence of official complicity, and no officials were prosecuted, tried, or convicted of trafficking-related charges. One police inspector was arrested in Abuja for releasing two trafficking suspects after being giving specific orders to hold them. The inspector was not suspected of collaborating with the traffickers and their activities.

The government provided limited funding for assistance to victims. NAPTIP served as the point of contact for immigration and police officials when victims were found. Seventy-three victims passed through the agency during the year. NAPTIP directly provided overnight shelter to victims, and agency officials connected victims to nongovernmental or international organizations for shelter, counseling, and reintegration assistance. NAPTIP established a hot line for victims and anyone seeking or wanting to provide information regarding trafficking. In some cases the government helped victims repatriate to the country and reunited trafficked children with their families.

The Ministry of Labor and Productivity, in collaboration with the ILO, NAPTIP, the police, and other federal agencies, provided food, transportation, and other logistical assistance to reunite internally and externally trafficked children with their families.

The government continued to operate the 120-bed shelter in Lagos, with involvement by the International Organization for Migration. NAPTIP also operated a second facility at a secure location in Benin City, Edo State, as a victim shelter. At the state level, the government of Akwa Ibom donated a shelter for trafficked children. The government of Kano State, in association with UNICEF, also donated a shelter for trafficked children.

The government provided some funding for protection activities. For victims serving as witnesses, divisional police officers were appointed to serve as witness protection officers. NAPTIP officials and the officer worked together to provide assistance. NAPTIP outreach efforts were based on a series of "town hall" meetings with community leaders, traditional leaders, teachers, school children, and other groups to raise awareness of the dangers of trafficking, legal protections, and available resources. Several state governments in the south continued strong efforts to protect victims. Victims were no longer charged with crimes or detained with criminals in cells as they were in previous years.

The government increased efforts and substantially increased funding to prevent trafficking in persons during the year. The stakeholder forum established by NAPTIP in 2003 continued. NAPTIP officials met with several major traditional leaders to raise their awareness regarding trafficking and the antitrafficking law. NAPTIP also worked with the media to raise awareness among the public, and officials appeared on national talk shows and state programs. The government continued implementing the ILO International Program on the Elimination of Child Labor (IPEC) West Africa Cocoa Agriculture Project to prevent the trafficking or employment of children in commercial agriculture, especially cocoa production.

NAPTIP led the establishment of state-level antitrafficking committees, consisting of immigration officials, civil society organizations, law enforcement agents, and fed-

eral ministries in 22 states. These groups were charged with coordinating action in trafficking cases among their respective organizations.

The government established economic and education programs that may help to prevent trafficking, such as the National Poverty Eradication Program and the Nigerian Agricultural and Rural Development Bank. Despite these and other programs, poverty, lack of access to education, and lack of economic opportunities remained pervasive problems in the country and fueled the trafficking problem.

Several state governments made significant prevention efforts during the year, including awareness campaigns among at-risk populations.

Nongovernmental and international organizations organized conferences and stakeholder meetings on trafficking and established prevention and awareness programs in schools. Groups also worked through the media. A faith-based foundation in Akwa Ibom State sponsored awareness programs on television and radio. The ILO continued a program in partnership with the News Agency of Nigeria to raise awareness and build media capacity to help eliminate child trafficking and child labor.

International organizations worked closely with the government and the community during the year to prevent child trafficking. UNICEF implemented a children's parliament program that discussed civil rights and the dangers of human trafficking.

The ILO continued to support information coordination and monitoring by providing internet connectivity to the national monitoring center. UNICEF also provided additional funding for NAPTIP zonal offices.

Persons with Disabilities.—There were no laws that prohibited discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services. There were no laws requiring physical accessibility for person with disabilities. Children and women with disabilities faced social stigma, exploitation, and discrimination, and were often regarded as a source of shame by their own families. Children with disabilities who could not contribute to family income were seen as a liability, and in some cases were severely neglected. Significant numbers of indigent persons with disabilities beg on the streets. Literacy rates among various categories of persons with disabilities were significantly lower than among the general population, for both men and women. The federal government ran vocational training centers in Abuja to provide training to indigent persons with disabilities. The individual states also provided facilities to assist blind and physically incapacitated individuals to become self-supporting, and persons with disabilities established a growing number of self-help NGOs.

National/Racial/Ethnic Minorities.—The country's population was ethnically diverse, and consisted of more than 250 groups, many of which spoke distinct primary languages and were concentrated geographically. There was no majority ethnic group. The four largest ethnic groups, which comprised two-thirds of the country's population, were the Hausa and Fulani of the north, the Yoruba of the southwest, and the Ibos of the southeast. The Ijaw of the South Delta were the fifth largest group, followed by Kanuri in the far northeast, and the Tiv in the Middle Belt. Societal discrimination on the basis of ethnicity was practiced widely by members of all ethnic groups and was evident in private sector hiring patterns, de facto ethnic segregation of urban neighborhoods, and a continuing paucity of marriages across major ethnic and regional lines. There was a long history of tension among some ethnic groups (see section 2.c.).

Many groups complained of insufficient representation.

The law prohibits ethnic discrimination by the government, but claims of marginalization, particularly by members of southern groups and Igbos, continued. In particular, the ethnic groups of the Niger Delta continued their calls for high-level representation on petroleum problems and within the security forces. Middle Belt and Christian officers dominated the military hierarchy, and some persons in the North believed that the northern Hausa were underrepresented in the military.

Northern Muslims accused the government of favoring Yorubas or Christians from the Middle Belt for those positions. Traditional linkages continued to impose considerable pressure on individual government officials to favor their own ethnic groups for important positions and patronage.

Ethnic groups claimed environmental degradation and government indifference to their status in the oil-producing Niger Delta region. Groups such as the Ijaw, Itsekiri, Urhobo, Isoko, and Ogoni continued to express unhappiness regarding their perceived economic exploitation and the environmental destruction of their homelands, and incidents of ethnic conflict and confrontation with government officials and forces continued in the Delta area (see sections 1.a. and 1.b.).

Interethnic fighting has long been a problem in Warri, Delta State, resulting in casualties and the displacement of tens of thousands of local inhabitants. The ceasefire in Warri, negotiated in 2004, remained largely in effect during the year, and there were fewer incidents of violence.

Interethnic fighting elsewhere in the Delta also displaced tens of thousands of local inhabitants. In 2004 militia groups operating in Port Harcourt and other areas around the Delta region carried out violent operations that ended when officials from the presidency negotiated directly with militant leaders and reached a ceasefire agreement. The agreement was implemented by the government of Rivers State and largely held until September, when violence was reignited by the arrests of Bayelsa State Governor Diepreye Alamieyeseigha and militia leader Asari Dokubo (see section 1.d) Following the October arrest of Dokubo, leader of the Niger Delta People's Volunteer Force (see section 1.d.), tensions remained high for several weeks with increased threats and instances of crime, particularly against foreign interests, that could have been politically motivated. However, these threats also may have been the result of groups taking advantage of the heightened tensions for monetary gain.

Competing economic aspirations among ethnic groups each seeking control of state and local governments, led to violent conflicts during the year.

On March 5–6, ongoing communal conflict along the border of Jigawa and Bauchi States flared up, injuring dozens and killing up to eight persons. The conflict occurred over the location of a 300-year-old public market that had been controversially relocated in 2004 from a village in Jigawa State to a neighboring village in Bauchi State. Fighting between the two groups was reportedly sparked by a Bauchi legislator's comment that the market would never be returned to Jigawa. In response to the violence the Jigawa State government set up an ad hoc committee, headed by the state commissioner of information, to identify the root causes of the conflict and recommend solutions. Although the committee submitted its report to the governor in March, the report was not made public.

On November 12, hundreds of youths rioted in eastern Plateau State over the formation of a new development area. The rioters claimed to be indigenous Pan, as opposed to Hausa/Fulani settlers (*Namu*). The new area, located around Namu town, was named Namu, while the rioting youths insisted it should be named Pan.

Conflict over land rights and ownership continued among members of the Tiv, Kwalla, Jukun, and Azara ethnic groups; each of these groups resided at or near the convergence of Nassarawa, Benue, and Taraba States. The Tiv, who were claimed by their opponents to have migrated to the country later than other inhabitants of the disputed area, were regarded as interlopers by the other groups, which consider themselves "indigenous". Tivs are the largest ethnic group in much of Benue and parts of other states.

In April in eastern Benue State, the site of numerous communal clashes in the past, an estimated 10 to 20 persons were killed in fighting between ethnic Tivs and Fulanis, reportedly sparked by the rape of a Tiv girl by a Fulani cattle herder. Many Fulanis fled into neighboring Taraba State. The state police command deployed additional mobile policemen to the area, preventing further violence.

Communal violence between members of the Ogori and Ekpedo ethnic groups in Kogi and Edo states continued over boundary and land disputes. Kogi and Edo state governors declared the disputed land a "buffer zone," and the matter was referred to the National Boundary Commission in 2003. No further action was taken during the year.

Clashes between herdsmen and indigenous farmers were common as they competed for diminishing land resources during the year. Farmers expanded their croplands onto traditional cattle migration routes, while nomadic herdsmen moved herds from overgrazed land onto farm areas. In February at least 10 persons were killed in clashes between farmers and herdsmen in Demsa, Adamawa State. Also, in Ringim LGA of Jigawa State, 4 to 10 persons were killed in clashes between farmers and herdsmen. About 20 persons were arrested but no charges were filed.

There were no developments in previous years' incidents of ethno-religious violence.

Other Societal Abuses and Discrimination.—Homosexuality is illegal under federal law; homosexual practices are punishable by prison sentences of up to 14 years. In the 12 northern states that have adopted Shari'a, adults convicted of having engaged in homosexual intercourse are subject to execution by stoning, although no such sentences were imposed.

There was widespread discrimination against persons living with HIV/AIDS, which the public considered a result of immoral behavior. Persons living with HIV/AIDS often lost their jobs or were denied health care services.

Section 6. Worker Rights

a. The Right of Association.—The law provides all citizens with the right to form or belong to any trade union or other association for the protection of their interests, and while workers exercised this right in practice, several statutory restrictions on the right of association and on trade unions restricted this right.

Workers, except members of the armed forces and employees designated as essential by the government, may join trade unions. Essential workers included government employees in the police, customs, immigration, prisons, the federal mint, and the Central Bank. Employees working in a designated Export Processing Zone (EPZ) may not join a union until 10 years after the start-up of the enterprise (see section 6.b.). The government's application of the "essential worker" designation was broad compared with the ILO definition.

According to figures provided by the three largest union federations, total union membership was approximately 5.1 million. Less than 10 percent of the total workforce was organized. With the exception of a small number of workers engaged in commercial food processing, the agricultural sector, which employed the majority of the work force, was not organized. The informal sector, and small and medium enterprises, remained largely unorganized.

The new Trade Union (Amendment) Act, passed on March 30, eliminated the previously mandated single-labor-federation structure for workers, organized under the Nigerian Labor Congress (NLC). Trade union federations, now called "central labor organizations," must be registered formally by the government. Each federation must consist of 12 or more trade unions, and trade union membership in a federation must be exclusive. A minimum of 50 workers per enterprise is required to form a trade union. All unions and federations officially recognized prior to the law's passage were allowed to retain their status. The government formally recognized 29 such unions under the NLC, 18 under the Trade Union Congress (TUC) and 8 under the Congress of Free Trade Unions (CFTU).

The TUC was recognized as a central labor organization under the new law, while the CFTU was not because it lacked the requisite number of affiliate unions. While lifting some restrictions on freedom of association by allowing more labor centers, the new law weakened the NLC, the country's largest labor organization. The International Confederation of Free Trade Unions released its annual report in October and named the country as one of several that suffered from increased abuses of workers' rights by government during the year.

The law prohibits antiunion discrimination.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference; however, the law also closely defines what union activity is legal. The law provides for both the right to organize and bargain collectively between management and trade unions, and collective bargaining occurred throughout the public sector and the organized private sector. The law prohibits national strikes and strikes on many issues.

Workers outside the legally defined category of "essential" had the right to strike, although they were required to provide advance notice of a strike. During the year workers exercised this right sparingly and with very limited scope, encompassing only individual factories or other work places. According to the March labor law, the right to strike is limited to matters pertaining to breach of contract or wages and conditions of work, prohibiting strikes over matters of national economic policy. A worker under a collective bargaining agreement could not participate in a strike unless his union complied with the requirements of the law, which included provisions for mandatory mediation and for referral of the dispute to the government. Workers are specifically prohibited from forcing persons to join a strike or from closing airports or obstructing public by-ways. Stiff fines and/or prison sentences are imposed on law-breakers. While strikes continued to occur in localized areas after the law passed in March, no national strike was called. Instead a new strategy of organizing peaceful protest rallies was implemented.

Employers reported unions used threats against members and their families to force them to stay at home during planned strikes.

In March oil union members initiated a strike against Tidex, a maritime firm, and detained 45 to 50 expatriate workers the vessels, except for brief periods onshore. The dispute continued for five weeks, when government and the NLC negotiated a resolution and the workers were allowed to depart their vessels.

In April crewing agency workers embarked on an indefinite strike to protest a government decision to move them from their union, the National Union of Petroleum and Natural Gas, to another union.

During the year, there were no strike-related casualties reported, only deaths in vehicle accidents on the way to or from strikes. Also no arrests were reported for participating in a strike.

No action was taken against security forces who killed or injured strikers in 2004. There were no laws prohibiting retribution against strikers and strike leaders, but strikers who believed they were victims of unfair retribution could submit their cases to IAP, with the approval of the labor ministry. The Industrial Arbitration Panel (IAP's) decisions were binding on parties but could be appealed to the National Industrial Court (NIC); in practice the decisions of these bodies infrequently carried the force of law. Union representatives described the arbitration process as cumbersome and time-consuming, and an ineffective deterrent to retribution against strikers.

EPZs in Calabar, Cross River State, and Onne Port, Rivers State operated during the year. Workers and employers in these zones were subject to national labor laws, which provided for a 10-year prohibition on trade unions, strikes, or lockouts following the commencement of operations within a zone. In addition the law allows the EPZ Authority to handle the resolution of disputes between employers and employees, instead of workers' organizations or unions.

c. Prohibition of Forced or Compulsory Labor.—Although the law prohibits forced or compulsory labor, including by children, there were reports that it occurred (see sections 5 and 6.d.). Enforcement of the law was not effective.

d. Prohibition of Child Labor and Minimum Age for Employment.—In most sectors, the minimum work age is 15 years, which is consistent with the age for completing educational requirements; however, child labor remained a problem. The law prohibits employment of children less than 15 years of age in commerce and industry and restricts other child labor to home-based agricultural or domestic work. The law states that children may not be employed in agricultural or domestic work for more than eight hours per day. Apprenticeship of youths at the age of 13 is allowed under specific conditions.

Awareness was increasing throughout civil society, and the government showed its commitment to the issue of child labor. Despite these advances, forced child labor and trafficking in children continued during the year (see section 5).

Economic hardship resulted in high numbers of children working to enhance meager family income. Children frequently were employed as beggars, street peddlers, bus conductors, and domestic servants in urban areas. Little data was available to analyze the incidence of child labor. The National Modular Child Labour Survey Nigeria conducted the only survey available between 2000 and 2001. The survey reported approximately 15 million children working in the country. Of these, more than six million were not attending school and more than two million were working 15 or more hours per day.

The Ministry of Employment, Labor, and Productivity dealt specifically with child labor problems, and had an inspections department whose major responsibilities included enforcement of legal provisions relating to conditions of work and protection of workers. There were fewer than 50 factory inspectors for the entire country, although the inspectorate employed nearly 400 total inspectors for all business sectors. The ministry conducted inspections mostly in the formal business sector, in which the incidence of child labor was not a significant problem. NAPTIP bears some responsibility for enforcing child labor laws. The agency reportedly received no complaints of child labor, although it did pursue cases of trafficking in children (see section 5).

Private and government initiatives to stem the incidence of child employment continued but were ineffective. The government implemented the ILO/IPEC West Africa Cocoa Agriculture Project in the cocoa and other agricultural sub-sectors to combat hazardous child labor and to prevent child trafficking for labor exploitation. Several programs by NGOs and international organizations worked to address child labor in the country.

UNICEF conducted a program to remove young girls from the street peddling trade and relocate them to informal educational settings. ILO programs worked to involve communities and schools in withdrawing children from exploitative situations such as street peddling and prostitution. The programs aimed to reintegrate the children into school or otherwise provide vocational training.

e. Acceptable Conditions of Work.—The law sets a minimum wage, which was reviewed infrequently. Real private sector wages greatly exceeded the minimum wage. The minimum wage was \$56.70 (7,500 naira) per month for private sector workers and \$41.70 (5,500 naira) per month for public sector workers (with a 13-month year as the law mandates an extra month's pay for the Christmas holiday). The national minimum wage did not provide a decent standard of living for a worker and family.

The government directed each state administration to establish its own salary structure based on its ability to pay, with a floor of at least the national minimum wage.

In 2003 the NLC and government agreed to a 25 percent employee wage increase. In 2004 the government increased federal employees' wages 12.5 percent; however, state employees did not receive any increase by year's end.

The law mandates a 40-hour workweek, 2 to 4 weeks' annual leave, and overtime and holiday pay, except for agricultural and domestic workers. There is no law prohibiting excessive compulsory overtime. Labor leaders reported that the law can be interpreted as prohibiting some forms of excessive, compulsory overtime; however, workplace health and safety conditions were not properly patrolled, and enforcement was sporadic at best due to insufficient police and the small number of factory inspectors. The law also establishes general health and safety provisions, some of which were aimed specifically at young or female workers. It requires that the inspectorate division of the Ministry of Labor and Employment inspect factories for compliance with health and safety standards. However, this agency was greatly underfunded, lacked basic resources and training, and consequently neglected safety oversight at many enterprises, particularly construction sites and other nonfactory work locations. The law requires employers to compensate injured workers and dependent survivors of those killed in industrial accidents. The labor ministry, which was charged with enforcement of these laws, has been ineffective in identifying violators. The Labor Law did not provide workers with the right to remove themselves from dangerous work situations without loss of employment.

The labor laws apply to legal foreign workers, but not all companies respected these laws in practice.

RWANDA

Rwanda is a constitutional republic dominated by a strong presidency. The population was 8.4 million. The largely Tutsi Rwandan Patriotic Front (RPF), took power in 1994 and formed a government of National Unity that functioned during the transitional period following the civil war and genocide until 2003, when President Paul Kagame was elected to a seven-year term in largely peaceful but seriously marred elections.

The country was affected by continuing instability in the eastern Democratic Republic of the Congo (DRC), where armed rebel groups continued to operate with impunity despite the presence of a UN peacekeeping mission in the DRC. During the first two months of the year, there were unconfirmed reports from credible sources that Rwanda Defense Forces (RDF) troops were at times present in the eastern part of the DRC, particularly following public threats by the Rwandan president in December 2004, which indicated that the government might send RDF troops into the DRC to attack Hutu rebels deemed a threat to its security. However, the government publicly denied allegations that RDF troops were operating in the DRC. Unlike in the previous year, there were no reports that Rwandan rebels in the DRC, known as the Democratic Forces for the Liberation of Rwanda (FDLR), conducted attacks in the northwestern region of Rwanda. The FDLR, largely made up of Rwandan Hutus who fled to the DRC in 1994 after the genocide, continued to be led by many individuals responsible for leading the genocide, and it continued to actively oppose the Kagame government.

While generally there were few disciplinary problems in the police force during the year, there were instances where government authorities did not maintain effective control of the security forces, and where security forces acted independently of government authority.

The government's human rights record remained poor, and there were instances when the government committed serious abuses; however, there were some improvements during the year. There were slightly fewer reports of human rights violations committed by the government. Unlike in the previous year, there were no reports of politically motivated disappearances, and there were fewer reports that police abused suspects and that the government arbitrarily arrested members of civil society groups and opposition politicians. During the year prison conditions improved. Unlike in the previous year, there were no reports that the government hindered the UN International Criminal Tribunal for Rwanda (ICTR), or that security forces monitored homes or telephone calls. There were fewer reports of the government violating the rights of Jehovah's Witnesses. Women continued to be well represented in the legislative branch, and government anticorruption efforts resulted in a reduction in the level of corruption perceived by citizens. In addition unlike in the previous year, there were no reports of the Local Defense Forces (LDF) recruiting chil-

dren; fewer reports of women being trafficked internally or to Europe for prostitution; and no reports of local government officials inciting Tutsi citizens to make false accusations against or discriminate against Hutus. Widespread poverty and the destruction of the country's social fabric, human resource base, institutional capacity, and economic and social infrastructure during the 1994 genocide continued to have an adverse impact on the country's human rights situation. The following human rights problems were reported:

- abridgement of citizens' right to change their government
- reports of unlawful killings by security forces
- reports of the use of torture and excessive force by security forces
- harsh prison and detention center conditions
- impunity
- arbitrary arrest and detention and political detainees
- prolonged pretrial detention and denial of fair public trials
- political prisoners, including former President Pasteur Bizimungu
- arbitrary interference with family and home
- restrictions on freedoms of speech, press, assembly, and association
- restrictions on freedom of religion
- abridgement of protection rights for refugees or asylum seekers
- restrictions on civil society
- societal violence and discrimination against women
- trafficking in persons
- child labor
- lack of protections of some workers' rights

On January 25, the UN reported that the government continued to "maintain security arrangements" with and provide weapons to armed proxy groups, including ex-Congolese Rally for Democracy-Goma (RCD-G) combatants, who continued to operate and commit serious human rights abuses in the DRC, including killings and rape.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reported political killings by the government or its agents; however, there was one report of a soldier charged with committing three arbitrary killings, and a local NGO reported nine unlawful killings by the LDF between July and December.

On November 3 in Cyangugu Province, Gitambi Sector, the Rwandan League for the Promotion and Defense of Human Rights (LIPRODHOR) reported that the LDF killed a man accused of theft while he attempted to escape police custody. At year's end an investigation was ongoing.

According to a December 16 article in the Kigali-based newspaper *The New Times*, following an argument on December 2, Corporal Gapira Ndengeye shot and killed Athanasie Mukarubug, a prostitute, as well as her two daughters, 10-year-old Nadine Tuyisenge and 13-year-old Josiane Ndayishimiye, in Butare Province's Tumba Sector. A military court in Butare Province began Ndengeye's trial in December, and although a verdict was expected on December 28, no additional information was available by year's end.

There were no developments in the January 2004 beating to death of Protais Ntiruhunwa, a boy, by soldiers.

There were no developments in the April 2004 beating to death of a plantation worker by an LDF member in the Gisenyi Province district of Kanama.

During the year police arrested two LDF members and charged them with the killing of Jean Baptiste Nsekanabo in May 2004.

LDF officers who were arrested for committing abuses in 2003 remained in jail, and none of their cases reached conclusion during the year.

Although there was no indication that RDF forces were directly involved, there continued to be reports during the year of killings and other human rights abuses—including torture, rape, and looting—committed with impunity by armed groups and militias in the DRC. Verification of these reports was extremely difficult, particularly those originating from remote areas and those affected by active combat in the eastern part of the DRC. However, based on investigations conducted and information collected in late 2004 and January, a UN panel of experts reported that the

Rwandan government continued to maintain a “residual presence” in the DRC and cited evidence indicating that the Rwandan government continued to provide military support to insurgent proxy groups in the DRC; however, the Rwandan government maintained that it no longer had troops in eastern DRC. It also denied any responsibility for the numerous serious human rights abuses committed against civilians by armed groups in the DRC.

At year’s end, the government had not opened any new inquiries into the abuses by its troops in previous years in the DRC. The appeals of RDF Sergeants Nkusi and Sebuhero, both convicted of two 1998 murders by a military court in 2003, were pending at year’s end.

According to reports, during the year unidentified individuals killed approximately 15 witnesses to the genocide throughout the country to prevent testimony and undermine the rural community-based justice system (*gacaca*), which the government established to address certain categories of crimes related to the 1994 genocide. Police investigated at least some of the killings, although it was not known if they had made any arrests by year’s end. The government worked actively to stop the killing of witnesses to the genocide, and there were significantly fewer killings during the year than in 2004.

There was no information available on persons arrested in 2004 whom police suspected of killing witnesses to the genocide.

The ICTR, based in Tanzania, continued to prosecute genocide suspects during the year (see section 4).

Unlike in the previous year, there were no reports of killings committed in the country by insurgents who were allied with persons responsible for the 1994 genocide. There were no developments in the 2004 killings by FDLR members and other armed individuals.

In March the FDLR leadership, which included many individuals responsible for leading the 1994 genocide, said that it would disarm and return to the country but did not follow through after imposing conditions that numerous international observers called unreasonable, including that it receive special treatment in the political arena. During the year, according to its stated policy, the government welcomed and repatriated hundreds of former FDLR combatants, who had fled the tight control of the FDLR’s leadership; however, the government reiterated its policy that the FDLR members would not receive special treatment and would be subject to genocide trials, like the general population, if they were over 14 years of age at the time of the 1994 genocide.

b. Disappearance.—Unlike the previous year, there were no reports of politically motivated disappearances within the country; however, during the year a government official reportedly threatened a staff member of an international NGO while it was investigating the disappearances of individuals (see section 4).

The government claimed to have no knowledge of the whereabouts of Jean Dama-scene Tuyizere, who disappeared after security forces arrested and questioned him for several days in April 2004 in Gisenyi Province.

Regarding the case of the October 2004 disappearances of Jean de Dieu Kwizera, David Habimana, Block Mugambira, and Jean Paul Kamondo—campaign workers of 2003 presidential candidate and former Prime Minister Faustin Twagiramungu—the government stated that authorities had released the four men on bail and that criminal proceedings were under way at year’s end.

In March, April, and May, a court heard the case of Jean Leonard Kagabo, an RDF captain who disappeared for at least two months after police arrested him on charges of attempted desertion in November 2004, along with three of his alleged accomplices. At year’s end Kagabo was still in detention, and his trial continued.

There were no developments in the 2003 disappearances of two prominent citizens and four high-level government officials, including parliamentarian Dr. Leonard Hitimana, a member of the Democratic Republican Movement (MDR), an opposition party. However, according to a resolution adopted on October 19 by the Inter-Parliamentary Union, an international organization composed of national parliaments, “harassment” of the family and friends who have been supporting the children of Hitimana continued during the year. In addition the resolution stated that during the year Theobald Rutihunza, a source of information in the Hitimana case and the former president of LIPRODHOR, was “the subject of reprisals, which affect in particular his 80-year-old mother.” The resolution did not identify the perpetrators of the harassment or reprisals.

The government provided no proof of claims made in a June 2004 report on the status of several investigations of high-profile disappearances, all of which occurred in 2003, following the release of a 2003 government report criticizing the MDR and calling for its dissolution. According to a June 2004 government report, Lieutenant Colonel Cyiza, a former supreme court vice president who disappeared in 2003, was

residing in the DRC; and two other military officers previously reported missing were in Burundi.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits torture; however, during the year a local NGO reported that an official committed acts of torture in the Nyamirambo Sector of Kigali City's Nyamirambo District. In addition another local NGO reported that it received approximately 96 clients each month who requested assistance for torture victims; however, an undetermined number of these victims may have been tortured during the genocide. During the year there were fewer reports of police officers abusing suspects; however, police officers sometimes reportedly beat suspects at the time of arrest. In addition the National Human Rights Commission, created by the National Assembly in 1999, reported that the government operated secret, illegal detention centers (in Kibungo Province, for example); however, although the Senate was expected to investigate these reports, they had not been confirmed by year's end.

There were numerous reports that police arrested, detained, and beat members of Jehovah's Witnesses because they refused—on religious grounds—to participate in nighttime security patrols (see section 2.c.). During the year police reportedly beat at least 12 Jehovah's Witnesses while they were in police custody. However, according to the Jehovah's Witness National Executive Council, prison and detention center beatings of Jehovah's Witnesses were less numerous than in the previous year.

There continued to be reports that security forces at times beat, harassed, or threatened individuals they deemed to be civil dissidents, journalists, and members of NGOs (see sections 2.a., 2.b., 2.c., and 4).

No action had been taken by year's end against Corporal Mwitabangoma, who allegedly was responsible for beating Mathias Mugabo.

Unlike in 2004, there were no reports of unexploded ordnance killing or injuring persons during the year.

During the early part of the year, according to a UN panel of experts, combatants in the eastern region of the DRC—whom the Rwandan government provided with military supplies—committed numerous serious human rights abuses, including torture, beatings, and rape (see section 4).

Prison and Detention Center Conditions.—Prison and detention center conditions were well below international standards and were harsh.

Chronic overcrowding, a consequence of the genocide combined with a lack of government capacity, remained a serious problem, although the conditional release of approximately 22 thousand prisoners in August relieved some of the problems attributed to overcrowding. The government remained committed to improving prison and detention center conditions, and they improved during the year.

The International Committee of the Red Cross (ICRC) estimated that there were 67 thousand prisoners following the August release in the country's 16 central prisons, including approximately 53 thousand accused of genocide-related crimes and approximately 14 thousand detained on charges unrelated to the genocide. Sanitary conditions in prisons and detention centers were poor at the beginning of the year but improved as the year progressed. Despite continuing efforts, the government did not provide adequate medical treatment. The government provided food to prisoners, but it was not sufficient. Family members supplemented food provisions, and the ICRC assisted the government by providing 15 percent of the food in the 16 main prisons and also provided additional expertise and medical, logistical, and material support to improve conditions for inmates. Prison deaths largely were the result of preventable diseases and suspected cases of HIV/AIDS. There were an undetermined number of deaths in prison reported during the year. National prison policy prohibits the hiring of prisoners to perform work at private residences and businesses. However, community service was often part of a prison sentence for those who confessed to crimes, and prisoners may work (uncompensated) on community projects such as building roads, bridges, and private residences (see section 6.c.).

More than 500 minors were incarcerated with adults throughout the prison system. In August the government released all minors who had been detained for genocide-related crimes in a provisional prisoner release. The 800 minors who remained in prison were detained for crimes not related to the genocide. The government also made efforts to better ensure that minors were incarcerated separately from adults. However, due to the physical constraints of prison facilities, many minors were held with the general adult population, although at one prison (Cyangugu Prison), children between 14 and 18 years of age were housed in a separate block. In addition courts continued to give minors special treatment, taking into consideration their ages during sentencing. Pretrial detainees generally were separated from convicted prisoners; however, there were numerous exceptions as a result of the large number

of genocide detainees awaiting trial. Some high profile political prisoners, such as former president Bizimungu, were kept in special sections of regular prisons, while others, such as Father Guy Theunis, a Belgian priest accused of genocide-related crimes, were kept with the general population with no reported problems (see sections 1.d. and 1.e.).

Women were detained and imprisoned separately from men. In addition there was at least one prison (Miyove Prison in Byumba district) exclusively for women. At another prison (Cyanguu Prison), living conditions for women were better than those for men. Women prisoners were fewer in number and housed in their own block, with separate beds.

During the year Lawyers without Borders reported that an NGO undertook efforts at Gitarama central prison to facilitate the separation of women, juveniles, and pre-trial detainees from convicted prisoners.

The government permitted independent monitoring of prison conditions, and the ICRC, human rights organizations, diplomats, and journalists had regular access to the prisons. The ICRC continued its visits to communal jails and military-supervised jails.

d. Arbitrary Arrest or Detention.—The constitution provided legal safeguards against arbitrary arrest and detention; however, in many instances, security forces arrested and detained persons arbitrarily.

Role of Police and Security Apparatus.—The RDF maintains external security. The National Police, under the minister of internal security, has responsibility for internal security and is headed by a commissioner general and two deputy commissioners, one for operations and another for administration. Five assistant commissioners oversee the various units, such as traffic, intelligence, criminal investigations, protection, and the provincial areas. The police lacked basic resources such as handcuffs, radios, and patrol cars. However, they participated in extensive training programs, and the police academy curriculum included training on human rights, nonlethal use of force, and professionalism. There was little problem with corruption or discipline within the police force due to strict training and close monitoring. During the year, although efforts were taken to professionalize the national police, there were some cases of beatings of suspects. The prosecutor general's office under the ministry of justice was responsible for investigating police abuse.

Members of local communities chose and selected community volunteers to serve in the LDF, a law enforcement organization under the Ministry of Interior that assisted police. The national police oversaw the LDF, which was not a constitutionally based institution. LDF members performed basic security guard duties throughout the country, including maintaining a presence at gacaca proceedings, were not paid, and received less training than the national police. LDF members did not have powers of arrest, but in practice they made arrests on orders from local administrative officers. Among its various duties, the LDF chased illegal street vendors, petty criminals, and prostitutes away from public areas. Unlike in the previous year, there were no reports that the LDF acted with impunity. During the year the government prosecuted individual LDF members who committed crimes; however, some human rights groups accused the government of not taking sufficiently strong action against some LDF members and considered the organization to be abusive.

Arrest and Detention.—The law requires that authorities investigate and obtain a judicial warrant before arresting a suspect. Police may detain persons for up to 72 hours without a warrant, and formal charges must be brought within 5 days of arrest; however, these provisions were often disregarded during the year. The law permits investigative detention if authorities believe that public safety is threatened or that the accused might flee. There is no bail, but the authorities may otherwise release a suspect pending trial if they are satisfied that there is no risk that the person may flee or become a threat to public safety and order. Police used incommunicado detention during the year. By law detainees are allowed access to lawyers. In practice, however, access to legal representation was problematic due to the scarcity of lawyers in the country (only 140 total, most of them in Kigali). Moreover, the government did not provide indigent persons with free access to lawyers, and the Kigali Bar Association lacked the resources to provide lawyers to every indigent. The law requires the government to provide minors with legal representation, which judicial observers cited as a factor in juvenile trial delays. Family members were promptly allowed to visit detained relatives. However, according to a local NGO, prison management sometimes limited access.

During the year security forces sometimes used arbitrary arrest and detention. Authorities detained numerous individuals either after they expressed viewpoints unacceptable to the government or because of their membership in religious organizations.

Several members of Jehovah's Witnesses were arbitrarily arrested during the year (see section 2.c.).

There were reports of political detainees throughout the year, although there were no available estimates of the number. Many were detained for short periods and then released. For example on April 30, security forces detained Colonel Patrick Karegeya, spokesperson for the RDF and former head of National Security Services, and held him incommunicado at a special facility until September 29. He was not charged with any offense. According to press reports, he was detained for "indiscipline."

In March the high court began the trial of former parliamentarian Leonard Kavutse (see section 1.e.).

There was no additional information regarding the 2003 arbitrary arrest and detention of Janvier Munyemana. In the 2003 arbitrary arrest and detention of Pierre Gakwandi, secretary general of the MDR, a court convicted and sentenced Gakwandi to four years in prison.

As part of the demobilization, repatriation, and re-integration process, the government continued to accept former Rwandan combatants who returned to the country from the DRC, and more than six thousand have been peacefully resettled (see section 2.d.).

At year's end approximately 53 thousand prisoners accused of genocide-related crimes continued to be imprisoned while awaiting trial. The majority of those detained for genocide-related crimes were men who had not confessed and were accused of "category I" crimes (the most severe), which include rape, murder, genocide instigation, or playing a leadership role in the genocide. The law permits the continued detention of genocide suspects long enough to allow them to face trial either in a conventional court or in the gacaca system (see section 1.e.). Lengthy pretrial detention was a serious problem and a consequence of the large number of persons suspected of committing genocide (*genocidaires*) in prisons and detention centers; and many suspects had been in jail since 1994. The government did not have the capacity to process cases within a reasonable time. During the year the lead government agency that coordinates the gacaca system, the National Service of Gacaca Jurisdictions, made a concerted effort to expedite genocide-related cases. At the end of the year, there was a total of 40 thousand cases, including genocide cases, pending in the courts.

Mobile groups, whose mandate was to establish or complete files that indicated the basis for charges for all genocide-related detainees, continued to operate during the year. Approximately 90 percent of detainees in custody during the year had files; however, the vast majority of those files were incomplete.

Amnesty.—In August, the government conditionally released 22 thousand prisoners, including the elderly, the sick, minors, and those charged with less severe crimes.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary; however, in practice there were constraints on the judiciary's independence. The judiciary suffered from inefficiency stemming from a lack of resources, and the government had not given gacaca courts jurisdiction to address crimes allegedly committed by RPF soldiers during the genocide. The judiciary operated in most cases without government interference; however, according to an NGO, in a few cases viewed as politically sensitive, including those dealing with genocide ideology and persons accused of killing genocide survivors, indirect public pressure may have influenced the judiciary, although there were no reports of direct pressure on judges. The NGO reported that judges appeared to be more assertive as a result of the judicial reforms of 2004. While the judiciary made significant progress toward increased independence during the year, problems remained. For example while the constitution provides that the Judiciary is "independent and separate from the legislative and executive branches of government" and "enjoys financial and administrative autonomy," the ministers of justice and finance continued to play important roles in defining the judicial budget.

The justice system collapsed during the war and genocide of 1994. With help from the international community, it continued to undergo a slow rebuilding process and had made significant progress over the past decade. The government did not always have the capacity to enforce the law or to ensure that due process protections were observed. However, during the year there were several cases in which judges ruled against senior political figures. In addition the judiciary continued to implement reforms and make efforts to reduce the backlog of genocide-related and nongenocide cases.

An ombudsman was mandated to conduct investigations into judicial corruption; however, by year's end no such investigations had been conducted.

The constitution provides for the adoption of a system of ordinary and specialized courts. Ordinary courts included the Supreme Court, a high court, provincial courts, and district courts. Specialized courts included gacaca courts and military courts.

Trial Procedures.—The law provides for public trials with the right to a defense (but not at public expense), a presumption of innocence, and a right to appeal, and these provisions were generally respected in practice; however, presumption of innocence was occasionally not respected, and some appeals cases were subject to lengthy delays. Most trials were public, and in the regular court system, defendants could question witnesses used against them and present witnesses and evidence on their own behalf. By year's end there were approximately 140 lawyers and 250 judges in the country, and the poverty of most defendants made it difficult for many of them to obtain legal representation. An estimated 10 percent of defendants were able to afford a private lawyer. Lawyers Without Borders continued to train gacaca judges but lacked the resources to provide defense counsel to those in need. New court officers continued to be sworn in and assigned to courts across the country, but the government did not have a sufficient number of prosecutors, judges, or courtrooms to hold trials within a reasonable period of time. There also continued to be problems enforcing domestic court orders. For example security forces at times ignored court decisions and refused to release prisoners. In a well-publicized case in Kigali, authorities arrested eight police officials on charges of misappropriating police funds. When one of the accused, Chief Inspector Edward Higiroy, escaped, the National Police kept the other seven detained despite a court order by the Kigali city court directing that they be allowed out on bail. In December the National Police recognized the court's authority and released the seven on bail.

During the year there were trials that, according to some local and international observers, did not meet internationally accepted standards. On April 21, the high court sentenced former parliamentarian and MDR party member Jean Leonard Kavutse to two years in prison after he pled guilty to sectarianism; according to Amnesty International (AI), he told the court he had confessed only after having been tortured. Kavutse, who had been in detention for 20 months, had one year of his sentence suspended and was placed on probation for two years. He was arrested in 2003 based in part on the contents of a letter he had written to a former 2003 presidential candidate, using terms considered very offensive during the 1994 genocide to describe the Tutsis. Kavutse was acquitted of the more serious charge of treason.

The RDF continued to dismiss soldiers for indiscipline and criminal offenses. The RDF routinely tried military offenders in military courts, which handed down sentences of fines, imprisonment, or both during the year. The law stipulates that civilians who were accomplices of soldiers accused of crimes be tried in military court. Civilians tried in military court had received stolen goods from soldiers, had acted as accomplices with soldiers to commit theft, or had participated in rape. Military courts tried fewer than 10 civilians during the year.

The judiciary continued efforts to resolve the enormous genocide caseload of more than 53 thousand detainees (see section 1.d.). Gacaca courts served as the government's primary judicial process for adjudicating thousands of genocide cases. The gacaca law provides for reduced sentences, including community service, for cooperation and credit for time served. Lawyers were not permitted to participate officially in gacaca but could testify as private citizens. There were 169,442 gacaca judges (7 per gacaca court), or "persons of integrity" elected by the community and provided with gacaca law training, serving in 12,103 gacaca courts across the country, including 1,545 appellate courts. Some criticized the gacaca system, alleging that it was being abused by those who bore personal grudges unrelated to the genocide. At year's end a domestic newspaper reported an increase in the number of gacaca judges implicated in the genocide (see section 3).

Defendants in gacaca courts had the right to present witnesses and evidence on their own behalf. There was a right of appeal in gacaca proceedings at sector-level courts in the 118 pilot project gacaca sectors. The registration procedure for observing gacaca trials made it difficult for human rights groups to monitor the trials, which were public.

Given the heavy volume of genocide-related cases, which the government estimated would take 100 years to resolve in the conventional court system, most observers agreed in principle with the need for gacaca courts, but there were concerns that in practice, the gacaca courts were unfair and did not accomplish the twin goals of justice and reconciliation. The gacaca process was generally considered to be more effective at providing justice than at fostering reconciliation, and it was not always perceived as fair. For example some gacaca judges denied defendants the right to present witnesses and ordered the imprisonment of those who questioned the impartiality of gacaca judges (see section 2.a.). In addition because the government had not given the gacaca courts the authority to consider human rights abuses allegedly

committed by the RPF during the 1994 genocide, some human rights groups have criticized the gacaca courts for representing a form of incomplete or one-sided justice, and for being biased against those who acted on behalf of the former government. Furthermore, poorly qualified or trained judges and ill-defined guidelines on evidence and hearsay were problems. Throughout the year there were occasional reports that local gacaca officials and citizens used the process to pursue personal matters, including making false accusations in order to acquire land.

Threats against genocide witnesses also hampered the gacaca process; persons accused of genocide-related crimes, including some individuals who had been released by the government from pretrial detention, reportedly made these threats. The government held local communities responsible for protecting witnesses, and relied on the LDF, local leaders, police, and community members to ensure the safety of witnesses. Despite these efforts, however, unidentified individuals killed approximately 15 genocide witnesses during the year (see section 1.a.). Although many fewer genocide witnesses were killed than in the previous year, many citizens still were too frightened to testify.

During the year the government investigated reports from 2004 that organized groups targeted and killed witnesses to the 1994 genocide in certain provinces.

Near the end of the year, a local pro-government newspaper and a local NGO reported that 69 persons accused of genocide-related crimes had committed suicide during the year out of fear of appearing before a gacaca court. In addition during the winter and spring more than 6,500 Rwandans left for Burundi or Uganda, reportedly due, in part, to fears of gacaca and to economic reasons.

In a one-day hearing on September 11, a gacaca court ruled that the case of Father Guy Theunis, a Belgian citizen charged with instigating genocide, should be referred to the conventional judicial system for trial. The hearing was reportedly marked by unsubstantiated accusations, hearsay, and guilt by association. It was not clear whether the government officials who testified against him were participating in an official capacity or as ordinary members of the community. Many of the charges made regarded actions allegedly taken by Theunis that occurred in 1997, which was outside of the gacaca system's constitutionally mandated period of jurisdiction. In November under an accord between Rwanda and Belgium, Theunis was transferred from the high court to the Belgian judiciary, which was handling the case at year's end.

In addition to gacaca courts, genocide-related cases were tried by the ICTR and by the government in conventional courts (see section 4). Between the creation of the ICTR in 1994 and the end of 2005, it rendered 20 judgments on 27 cases. As of the end of the year, the tribunal held a total of 60 detainees, including 28 on trial, 15 awaiting trial, 8 awaiting transfer, and 9 whose appeals were pending. A total of six were serving sentences in Mali. Less than 10 percent of individuals charged with genocide-related crimes have been tried in conventional courts; two categories of genocide suspects (categories II and III) are tried in gacaca courts, while the suspects accused of the most serious genocide crimes (category I) are tried in conventional courts.

A section of the Organic Genocide Law is designed to encourage confessions in exchange for reduced sentences for individuals accused of genocide-related crimes other than category I crimes (see section 1.d.). Following efforts by the government, international donors, and NGOs to advertise widely the confession provisions, as of the end of the year 95,066 individuals had confessed to genocide-related crimes since the law was implemented in 1996. Their testimony may implicate as many as up to a million additional persons in the genocide who have not yet been detained by police; in January the government estimated that gacaca may implicate a total of between 700 thousand and 1 million citizens, one-eighth of the country's total population.

A human rights NGO reported during the year that the government had implemented a new policy of incentives and disincentives to elicit more confessions from detained genocide suspects. Under the policy, if a genocide suspect does not confess to the genocide-related crime of which he is accused, then he could lose some of his privileges, including his right to see his family. Many detained genocide suspects reportedly told the NGO they had confessed just to avoid losing their privileges.

A gacaca law passed in June 2004 stipulates that anyone who is convicted of a Category I or II genocide-related crime is no longer eligible to vote. The gacaca law does not specifically prohibit convicted genocidaires from entering certain professions; however, the codes of ethics for certain professions, including that of teachers, doctors, lawyers, and civil servants, do not allow convicted criminals to enter those professions.

Political Prisoners.—During the year there were 10 political prisoners, including former President Pasteur Bizimungu and a local *Umuco* journalist Alexander

Rugabage. On October 25, the Supreme Court began to hear an appeal by Bizimungu, former transport minister Charles Ntakirutinka, and six other persons believed to be involved with Bizimungu's banned Party for Democratic Renewal. A court had convicted all eight individuals in June 2004 on charges of "threatening national security by forming a criminal association"; it sentenced Bizimungu to 15 years in prison, Ntakirutinka to 10 years in prison, and the remaining six to 5 years each. The defendants, including foreign embassy employee Valens Munyaneza, were detained for two years prior to their 2004 trial. Local and international observers considered the verdict of the lower court politically motivated due to insufficient material evidence to substantiate the charges and dubious witnesses.

The government permitted the ICRC access to Bizimungu.

Property Restitution.—Few people had success pursuing their property restitution cases through the court system.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The constitution prohibits such practices, and authorities generally respected these prohibitions. Unlike in the previous year, there were no reports during the year that security forces monitored homes or telephone calls.

Between 1997 and the end of 2001, more than 600 thousand persons were relocated to government-designated resettlement sites in compliance with a "villagization" policy. While villagization remained government policy, the government did not compel these persons to remain in the villages; however, some individuals continued to reside on the settlement sites because of restrictions on where houses could be built.

During the year a human rights NGO reported that residents in one province were refused land rights unless they provided a gacaca certificate attesting that they were not implicated in the genocide. There was no legal basis for this requirement.

Government policy requires citizens to participate in night watch patrols, and during the year the government sometimes arrested, detained, and allegedly beat individuals who refused (see section 2.c.).

Unlike in the previous year, there were no reports that armed men suspected of being RDF soldiers entered the DRC and attacked and burned villages.

During the year there were reports, including one by a UN panel of experts, that the government and uniformed men suspected of being from a DRC-based armed group were recruiting children in Rwandan refugee camps for use as child soldiers (see section 2.d.). However, the government denied that it had engaged in any such recruitment activities; it also said such practice was contrary to government policy, and that it had investigated these incidents by year's end.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government restricted these rights in practice, and, in some cases the government harassed journalists who expressed views contrary to official views. Many journalists practiced self-censorship due to fear of government reprisals. According to international press freedom group Reporters without Borders (RSF), press freedom was "at risk" in the country.

The law prohibits labor unions from publicly expressing their political opinions (see section 6.a.).

Government authorities sometimes detained individuals after they expressed viewpoints unacceptable to the government. The law prohibits "any propaganda of ethnic, regional, racial, or divisive character or based on any other form of divisionism," and public incitement to "divisionism" is punishable by up to five years in prison, heavy fines, or both. During the year residents of a rural district complained that the government was using divisionism as a way to stifle criticism of government policies on taxation, insurance, and restrictions on animal grazing and tree cutting. According to the residents, many individuals in the area were accused of divisionism after criticizing the mayor or his policies. They said a local official accused of divisionism-related charges had been jailed because of a pre-1994 conflict with the mayor. One person said divisionism charges were so common in the region because the local population had refused to vote for the RPF in the 2003 legislative elections.

By year's end there was no additional information on Augustin Habimana, who was arrested in April 2004 and detained during the remainder of 2004 after he complained in a public meeting about the government's policy of forced night patrols.

During the year the government continued to exercise tight controls over the media, and newspapers were subject to government restrictions. There were both privately and government-owned newspapers, published weekly in English, French, or Kinyarwanda; however, there were no daily newspapers. There were four inde-

pendent newspapers, *Newsline*, *Kinyamateka* (Catholic Church-owned bimonthly), *Umuseso* and *Umuco*, the latter of which started publishing in May. Both *Umuseso* and *Umuco* regularly maintained positions contrary to or critical of the government. Unlike in the previous year, the government did not confiscate copies of *Umuseso*; however, on one occasion in September, it confiscated copies of *Umuco* that criticized the government. Unlike in the previous year, there were no reports of government agents attempting to covertly infiltrate *Umuseso*'s staff to influence the content of the newspaper.

The government largely controlled the broadcast media. The law authorizes private radio and TV broadcasting, subject to the approval of the government. There were eight independent FM radio stations broadcasting during the year, but they primarily focused on music, not news. According to Committee to Protect Journalists (CPJ), an international press freedom group, a climate of government intimidation affected the news programming of privately owned commercial, religious, and community radio stations. Radio Rwanda journalists were civil servants of the National Office of Information. Foreign media groups, including Voice of America (VOA), BBC, and Radio France International, broadcast in Kigali throughout the year and were among the few providers of independent news in the country. During the year the government denounced VOA for what it called VOA's unbalanced reporting of Rwandan politics and its "antigovernment propaganda." VOA had broadcast news of the formation of a new opposition political party in an undisclosed location. The government owned and operated the country's sole television station.

During the year the government continued to harass and threaten the independent media. On September 7, Gitarama province police arrested and detained Jean Leonard Rugambage, an *Umuco* journalist, for alleged involvement in the 1994 genocide, a charge sometimes used to silence critics of the RPF. CPJ and others said they believed he was being prosecuted in retaliation for his journalistic work. The arrest came just two weeks after his August 25 investigative article was published in *Umuco* alleging that gacaca court officials in the Gitarama region engaged in mismanagement and witness tampering. On November 23, the gacaca court in the Gitarama region found Rugambage in contempt and sentenced him to a year in prison after he accused the presiding judge of bias—for refusing to hear defense witnesses—and demanded that the judge step down, according to CPJ. Rugambage claimed that the presiding gacaca judge engineered his arrest on the same accusation in 1996, but a judicial court later acquitted him. The court adjourned Rugambage's trial for alleged participation in the 1994 murder of a local banker, saying that he must first serve his sentence for contempt. At year's end Rugambage remained in prison.

In September police officers detained and questioned for seven hours Bonaventure Bizumuremyi, chief editor of *Umuco*, an independent Kinyarwanda-language bimonthly newspaper, and confiscated all available copies of the latest *Umuco* edition, which authorities claimed contained "harmful stories based on rumors and sensationalism" and "undermined state security." The confiscated edition called for the release of Rugambage, Father Theunis, and former President Bizimungu. According to RSF, Bizumuremyi said he received numerous telephone calls threatening him for criticizing the government. In August police had twice detained and questioned Bizumuremyi following the publication of an article on police corruption and another calling for the release of former President Bizimungu.

By year's end no action had been taken against security force members responsible for the February 2004 harassment of and death threats against five journalists, including two *Umuseso* editors.

Regarding the December 2004 stabbing of two *Umuseso* journalists, who claimed that they were assaulted because they were journalists, the government and the High Council of the Press, a local media monitoring and advisory body to the government, countered that this incident was the result of a drunken brawl outside a bar.

According to international NGO Freedom House, the government used financial pressure to influence many publications that were dependent upon the government's purchasing of advertising space. There were at least two printing presses available, one of them government-controlled, and the other reserved for religious media. Print media often published abroad to avoid local publishing costs, which were more expensive than publishing abroad, and, according to Freedom House, to avoid direct government control of their content.

The government used criminalized libel laws to suppress criticism and limit press freedom. For example, on March 22, a Kigali appeals court upheld a lower court ruling but significantly increased the penalty by sentencing *Umuseso* editor Charles Kabonero to a one-year suspended prison sentence and ordering him to pay damages and court fees of approximately \$1,900 (one million Rwandan francs) for "attacking

the dignity of a high authority.” Kabonero was also accused of, but not found guilty of, divisionism. Prior to the appeal, Deputy Parliamentary Speaker Denis Polisi filed criminal charges following the publication of an August 2004 *Umuseso* issue that accused Polisi of nepotism. The newspaper’s editorial board refused an August 2004 recommendation by the High Press Council to publish a correction and reveal sources.

The government cited national security as grounds to suppress views that were unrelated to security issues but politically embarrassing or objectionable.

Several journalists remained in self-imposed exile at year’s end.

There were no government restrictions on the Internet.

The government did not restrict academic freedom. Unlike in the previous year, there were no reports that the head of the national university monitored the university, its staff, or students for evidence of genocide ideology.

During the year authorities suspended and detained students on two occasions on accusations of engaging in genocide ideology. In July authorities suspended eight high school students in Bicumbi district for two weeks. In September police arrested and detained for several weeks two high school students in Gitarama police station; they were released on October 18. Most of the more than 60 teachers and students whose names the Ministry of Education, Science, and Technology submitted in 2004 to authorities for prosecution on charges involving genocide ideology were released by the end of the year, and all of the students had resumed school. They were accused of engaging in genocide ideology, among other offenses.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice; however, there were some exceptions. Authorities legally may require advance notice for outdoor rallies, demonstrations, and meetings. Unlike in the previous year, there were no reports that authorities prohibited nighttime meetings, although some groups avoided nighttime meetings to avoid possible disruption.

During the year Landnet, an umbrella group of NGOs, said the government prevented it from meeting on one occasion. Landnet scheduled a meeting for September; however, the government said it objected to the meeting because it wanted a higher ranking official to attend. Landnet Director Annie Kairaba-Kyambadde interpreted the minister’s comments as a threat to dissolve Landnet.

The government’s effective dismantling of independent human rights organizations in 2004 discouraged some civil society organizations from meeting during the year (see section 4).

The government continued to limit the type of locations where religious groups could assemble, and it instituted for part of the year a national ban on the building of structures for the meetings and worship services of Jehovah’s Witnesses (see section 2.c.).

Freedom of Association.—The constitution provides for freedom of association; however, the government limited this right in practice. Private organizations were required to register, and in practice the government generally granted licenses without undue delay; however, there were some exceptions. Organizations were required to obtain letters of support from every local official in areas in which the organizations intended to work. This requirement made registration extremely difficult for some organizations.

In October the government registered the Community of Indigenous Peoples of Rwanda (CAURWA), a Batwa advocacy organization, after having refused to do so in the previous year. However, consistent with its antidivisionism policy of not acknowledging individual ethnic groups, the government did not recognize the Batwa as an “indigenous group” (see section 5).

The constitution provides for a multiparty system of government and for the free operation of political organizations; however, the government often did not respect these provisions. During the year the MDR, the main opposition party, remained inactive as a result of the cabinet’s May 2003 recommendation to ban it. Although the Supreme Court never acted upon the recommendation, the MDR was dissolved shortly thereafter when all existing political parties were required to re-register under a new political party law.

All political organizations were obliged to join the Forum for Political Organizations. Unlike in the previous year, there were no reports that authorities harassed members of the Party for Peace and Concord (PPC), or that PPC members were forced out of their jobs.

The government continued to harass former members of the MDR and other opposition figures.

c. Freedom of Religion.—The constitution provides for freedom of religion; however, while the government generally respected this right in practice, it failed to prevent local authorities from violating or restricting religious freedoms for Jehovah's Witnesses and Pentecostals.

The law requires that all nonprofit organizations, including churches and religious organizations, register with the Ministry of Local Government and with the Ministry of Justice to acquire the status of "legal entity." There were no problems with the registration of Christian denominations such as Jehovah's Witnesses or Seventh-day Adventists; however, some individual churches with foreign pastors reported registration difficulties.

During the year a religious group cited by the parliament in its 2004 report on genocide ideology reported that it was afraid to talk about any topic that could be construed as "sensitive." Because the 2004 report had labeled the group as an organization that fomented ethnic divisionism and called for a return to the tenets of genocide, the group said it found it difficult to approach local authorities about its economic concerns and had raised no concerns with local authorities during the year. The group was not politically active, and its main activity was small-scale fundraising.

There were reports that police beat and detained or arrested members of Jehovah's Witnesses because they refused—due to religious beliefs—to participate in nighttime security patrols. Between January 1 and June 30, police imprisoned or detained 93 Jehovah's Witnesses accused of civil disobedience; their detentions, during which police beat 12 individuals, usually lasted between 2 days and 3 months. During the year a few judges ruled that the charges against Jehovah's Witnesses were inappropriate; they held that there was no law requiring mandatory nighttime patrols and that the prosecutor's office had wrongly applied a law requiring some form of "community work." However, by year's end 10 Jehovah's Witnesses had been tried and sentenced, and one remained in prison (see section 1.c.).

In a March meeting between government officials and representatives of Jehovah's Witnesses, the government said that some Jehovah's Witnesses did not respect the country's laws and rules and had incited people to civil disobedience. Following the meeting, a collaborative mechanism between the government and Jehovah's Witnesses authorities was set up to address any further problems and misunderstandings.

On March 30, Pentecostal Pastor Joseph Majyambere, who was arrested in January 2004 for "preaching rebellion," was released.

Although the civil marriage ceremony does not require that a participant must put his or her hand on the national flag, this practice was enforced throughout the country. The Jehovah's Witnesses, who object to this patriotic ceremony on religious grounds, claimed that members of their faith had been beaten and imprisoned due to their refusal to place their hands on the flag; however, during the year the community identified officials who did not insist on this patriotic ceremony and community members went to them to be married.

During the year, following the citing of religious figures and groups in the 2004 parliamentary report on genocide ideology, there were at least a few reports that religious groups changed their location or tailored their activities to avoid confrontation with authorities.

Unlike in the previous year, according to church officials, there were no reports of children of Jehovah's Witnesses being expelled from school for refusing to salute the national flag or sing the national anthem.

According to church officials, a family of Jehovah's Witnesses was arrested and jailed in September for refusing to sing the national anthem during a gacaca proceeding. The mother and child were released after two days, the father after four days.

Unlike in the previous year, there were no reports that authorities closed a Jehovah's Witnesses Kingdom Hall and dispersed worshippers; however, on February 18, the minister of local government and social affairs issued a written directive to all provincial governors ordering them to halt the construction of Jehovah's Witnesses Kingdom Halls. At year's end, as a result of discussions between Jehovah's Witnesses and the government, the government told Jehovah's Witnesses that they could resume the construction of Kingdom Halls; however, during the year Kigali city administrative authorities did not grant any construction licenses to Jehovah's Witnesses.

The February directive stated that the church was prohibiting its members from participating in gacaca, compulsory night patrols, and compulsory community service days. According to national leaders of the Jehovah's Witnesses community, the government was using gacaca as another tool to control religious organizations, and church leaders expressed concern that the directive may have been linked to the

2004 parliamentary report on genocide ideology, which listed many churches and church leaders as promoters of genocide ideology (see section 4).

During the year security forces arrested a Belgian priest on genocide-related charges; he was tried before a gacaca court in a hearing marked by problems (see section 1.e.).

Societal Abuses and Discrimination.—Some religious leaders were perpetrators of violence and discrimination during the year, and several clergy members of various faiths faced charges of genocide in the country's courts and in the ICTR (see section 4).

There was a very small Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The constitution provides for these rights, and while the government generally respected them in practice, the government sometimes did not provide refugee or asylum-seeker protections. Citizens must obtain a national identity card when making a permanent move to a new district; these cards were issued routinely. Unlike in the previous year, government officials did not force citizens to return to the districts listed on their identity cards.

Unlike the previous year, there were no reports that government officials delayed passport issuances for, or threatened to confiscate the passports of, political dissidents.

The law prohibits forced exile, and the government did not use forced exile; however, some individuals secretly left the country to live in self-imposed exile because they believed their lives were in danger.

During the first six months of the year, 6,021 refugees returned to the country; however, as of the end of the year, the Office of the UN High Commissioner for Refugees (UNHCR) estimated that a total of 56,404 Rwandans remained in exile in 20 African countries, including 7,392 in Burundi.

The government continued to accept ex-combatants who returned to the country from the DRC as part of the ongoing peace process between Rwanda and the DRC. A total of 24,255 former combatants had been demobilized and peacefully resettled in Rwanda since the beginning of the disarmament, demobilization, and reintegration program, including more than 6 thousand former combatants between January and December. With international support, the Demobilization and Reintegration Commission, the lead government agency for the reinsertion of returned ex-combatants, placed recently returned ex-combatants in a two-month re-education program at demobilization and reintegration centers in Ruhengeri Province. There was also a center solely for ex-child combatants (see section 5). After the two-month re-education period, each adult ex-combatant was given approximately \$90 (50 thousand Rwandan francs) and allowed to return to his village. Returnees who were accused genocidaires and over 25 years of age (or 14 years old at the time of the genocide) were subject to gacaca trials, as were all citizens.

Protection of Refugees.—The law provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol, and the government has established a system for providing protection to refugees. The constitution recognizes the right to asylum “under conditions determined by law,” and there was a law in place to recognize refugees. However, the government was slow to implement refugee registration procedures, and most persons seeking asylum or refugee status had to seek private assistance (finding housing, food, and other supplies) while awaiting formal recognition by the government.

In practice the government provided some protection against *refoulement*, the return of persons to a country where they fear persecution; however, in May the government applied pressure on the Burundian government to reach an agreement that, according to UN officials, resulted in the forceful repatriation of at least 6,500 Rwandan asylum seekers, whom the Burundian government designated “illegal immigrants.” They had left for Burundi between February and May, reportedly due to economic conditions and concerns about gacaca trials; however, Rwanda's minister for local government said they were fugitives fleeing justice. Both governments denied the UNHCR access to the asylum seekers during the repatriation in June. Rwandan government officials said the Rwandans returned voluntarily, that their rights were respected, and that the government was going to help them resettle. In December the local government allowed UNHCR access to the recent returnees. By the end of December, a total of more than six thousand Rwandan asylum seekers

were in Burundi; and by year's end, the Burundian government had begun the individual screening process with the assistance of UNHCR to determine refugee status.

In June as part of the same agreement, Rwandan government officials declared more than 6,600 Burundian asylum seekers in Rwanda "illegal immigrants" and said they would use "all means" to ensure they were repatriated without delay; according to the UNHCR, the Burundians had fled to Rwanda largely due to hunger and rumors of attacks in northern Burundi. After the Burundian presidential elections in August, the majority of the Burundian asylum seekers expressed a wish to return to Burundi. The UNHCR began weekly convoys to facilitate all Burundians willing to return; by December there were approximately 2,700 remaining in Rwanda.

The UNHCR continued to assist refugees and provided temporary protection to approximately 43,500 persons, the vast majority of whom were refugees from the DRC. The government generally cooperated with the UNHCR; however, there were some exceptions. For example the local governor of Butare Province denied UNHCR representatives access to recently returned Rwandans during several months of the year. However, by the end of the year, UNHCR had free access to returnees, and there were no reports that returnees were mistreated.

Unlike in the previous year, there were no reports that the government pressured Congolese refugees to return to the DRC.

Based on investigations conducted and information collected in late 2004 and part of the year, a UN panel of experts reported that the RDF was recruiting children in Rwandan refugee camps for use as soldiers.

In addition in May an international organization reported that uniformed men from Congo-based militias—suspected of belonging to the RCD-G—were recruiting children in two Rwandan refugee camps (Kiziba Camp and Gihembe Camp) for use as soldiers. According to the organization's report, on May 10, 45 children between the ages of 10 and 18 climbed onto a truck parked outside the entrance to Kiziba Camp in Rwanda's Kibuye Province, and their whereabouts were still not known by year's end. Parents in the camp told the organization's representative that the militia, which they said was the RCD-G, intended to attract at least a total of 80 new recruits. While there were some allegations of RDF involvement, senior Rwandan government officials stated that recruitment of child soldiers was not government policy and investigated the incidents. There were no further reports of such activities by year's end.

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

The constitution provides for the right of citizens to change their government peacefully; however, despite peaceful presidential and legislative elections during 2003, this right was effectively restricted.

Elections and Political Participation.—In August 2003 President Paul Kagame won a landslide victory against two independent presidential candidates, receiving 95 percent of the vote. International election observers, representing both foreign governments and NGOs, noted that the country's first post-genocide elections, though peaceful, were marred by numerous irregularities, including ballot stuffing, "guarded" polling booths, and irregular ballot counting in at least 2 of the 12 provinces. There also were numerous credible reports that during the 2003 presidential and legislative campaigns, opposition candidates and their supporters faced widespread harassment and intimidation, including detention.

In the 2003 legislative elections, President Kagame's political party, the RPF, won the majority of the seats in the Chamber of Deputies and Senate. International election observers noted that the elections, though peaceful, were marred by "serious" irregularities, "fraud," and widespread intimidation of the opposition.

The parliament was dominated by the RPF; six other political parties were represented in the Chamber of Deputies and the Senate; however, none were considered to be fully independent of President Kagame and the RPF. The constitution provides for a multiparty system but provides few protections for parties and their candidates. The government's continuing campaign against divisionism and its occasional use of arbitrary arrest against those critical of the government discouraged potential election candidates or others from engaging in open debate or criticism of the government or its policies (see sections 1.d., 1.e., 2.a., 2.b., 2.c., and 4). For example on one occasion during the year, according to AI, officials "interrogated and intimidated" two former presidential candidates after radio broadcasts in which they voiced doubts about *gacaca*. Political observers and members of political parties other than the ruling RPF agreed that the RPF dominated the political arena, although, as provided by the constitution, members of other political parties held key positions in government and parliament, including the presidency of the Senate

(held by a Social Democrat). Other political parties represented in parliament held regular meetings and were free to recruit new members.

In accordance with the constitution, all political organizations were required to join the Forum for Political Organizations. In addition the law regulates the formation, structure, and functioning of political organizations; it also monitors their use of the media, management of financial assets, and relations between political organizations and other institutions. The law outlines a code of conduct for political organizations. For example the law states that political organizations have the “moral obligation to condemn any biased ideas and behavior aimed at turning the state into a state governed by a cluster of politicians.” The law also outlines the government’s ability to cancel an organization’s mandate.

On December 21, the *The New Times* reported that during the year there was an “alarming” increase in the number of gacaca judges and senior political and military officials implicated in the 1994 genocide. Five members of parliament (MP), including MP Brigitte Tuyishime, who was accused of speaking in a derogatory manner about genocide survivors, had resigned from their posts by year’s end.

The constitution requires that at least 30 percent of the seats in parliament be reserved for women, who won approximately 40 percent of the seats during September 2003 legislative elections. At year’s end there were 8 women in the 26-seat Senate and 39 women in the 80-seat Chamber of Deputies. In addition President Kagame appointed nine women to ministerial positions, representing 32 percent of the positions in his cabinet.

There was one Batwa in the 26-seat Senate but none in the Chamber of Deputies.

Government Corruption and Transparency.—Corruption of government officials was a problem but not severe. Corrupt officials were routinely prosecuted. According to Transparency International’s 2005 Corruption Perceptions Index, citizens perceived corruption in the country to be a “serious” but not a “severe” problem.

Authorities at times harassed journalists who reported on corruption in various government sectors (see section 2.a.).

The Office of the Ombudsman has an active good governance program and several anticorruption units that work at the local level. During the year the office pursued more than three thousand corruption cases, the majority of which involved land. There were reports that some corruption charges and prosecutions were directed at political opponents of the RPF. Several high level officials were convicted of corruption, including former Minister of Agriculture Patrick Habamenshi, who was found guilty of embezzlement in September. The inspector general of government worked to prevent corruption, and during the year the government strengthened or put in place other institutions and mechanisms intended to ensure transparency and accountability, such as the Auditor General’s Office and the Rwanda Revenue Authority.

The law does not provide for access to government information, and in practice it remained difficult for citizens and foreigners, including journalists, to obtain access to government information.

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

A variety of international human rights groups operated in the country, investigating and publishing their findings. For the first part of the year, no domestic independent human rights NGOs were active as a result of the government’s ongoing campaign against divisionism. However, local NGO LIPRODHOR published in December a 126-page report on human rights that was openly critical of the government, despite the government’s tendency to be suspicious of and hostile toward local and international human rights observers. During the year some NGOs expressed fear of the government and self-censored their activities and comments, even during private meetings.

The government discouraged criticism of its human rights practices. For example during the year the government said calls by human rights groups or opposition figures for investigations of alleged war crimes committed by the RPF during the genocide were divisionist. The government claimed that such calls equated the genocide, which killed up to 1 million individuals and was perpetrated by the former regime, with abuses committed by RPF troops who stopped the genocide.

According to AI, during the year the Senate commissioned a study to identify divisionism and “genocide ideology” (support for genocide or its principle tenets) among international NGOs and scholars. By year’s end the report had not been published.

In June 2004 parliament released a report by the Commission on Genocide Ideology about the allegedly widespread prevalence in the country of divisionism and genocide ideology. The report accused 13 domestic and international civil society

groups, including LIPRODHOR, the country's largest human rights NGO; religious institutions; journalists; allegedly corrupt leaders of local government; secondary schools; and the national university of engaging in divisionist activities and genocide ideology. The government accepted the commission's recommendation to dissolve five domestic civil society groups and used the report in conjunction with national security laws to justify arbitrary arrests and the effective dismantling of the country's independent human rights organizations. The government particularly targeted LIPRODHOR, the only nationwide human rights organization, by freezing its assets, threatening its dissolution, and forcing its alignment with government policy. In addition several key LIPRODHOR staff sought asylum abroad. Under new leadership, LIPRODHOR conducted an internal inquiry and, while acknowledging in a September 2004 communique that certain LIPRODHOR members had engaged in "bad behavior," reaffirmed its overall commitment to the protection of human rights. During the year one of more than 10 LIPRODHOR activists and leaders who fled the country in 2004 and remained in exile during the year called the communique "shameful" because it "apologized for things the organization had never done," and the activist questioned whether it represented a new era of submission to the government.

According to a 136-page report, *Front Line Rwanda: Disappearances, Arrests, Threats, Intimidation and Co-optation of Human Rights Defenders 2001-2004*, which was published in March by the International Foundation for the Protection of Human Rights Defenders (Front Line), the "real reason" the government targeted LIPRODHOR had nothing to do with divisionism or genocide ideology; rather, LIPRODHOR had displayed too much independence and too much success in mobilizing a grassroots network of local human rights monitors and had criticized government actions. As one LIPRODHOR activist in exile reportedly told Front Line, "Even the international community trusted LIPRODHOR. That's why we had so many donors. Most of those donors were also government donors, and so sometimes they could lobby or put pressure on the government thanks to the information they received from LIPRODHOR. So that's why the regime was not pleased by the system LIPRODHOR was working in." A government official, who reportedly spoke anonymously to Front Line, said that what made LIPRODHOR such an "inviting target" was its independence and the fact that the government saw it as "the only human rights organization critical of the government."

Other civil society organizations implicated in the 2004 parliamentary report were also forced either to stop their activities or rework their programs to align more closely with government policy. According to Front Line, "With few exceptions, Rwandan human rights NGOs today rarely investigate and document violations by the state, preferring instead to focus on abuses by nonstate actors (such as domestic violence). Out of self-preservation, they now shy away from vigorous human rights advocacy and concentrate on nonconfrontational activities such as humanitarian assistance and human rights education and training."

Although not officially dissolved, LIPRODOHR was essentially not operating by February. In addition to facing pressure from within the country, many of LIPRODHOR's key members who had fled the country were advising international donors not to support the group, claiming that it had been infiltrated by the government, a claim that the Front Line report supported with several detailed accounts. Only a small core staff was still receiving salaries. At least during the first part of the year, the researchers remaining in the field said they were finding it difficult to work because the general public distrusted them following the issuance of the 2004 parliamentary report on genocide ideology. However, during the year a number of the individuals and organizations named in the 2004 parliamentary report were able to use the judicial system to clear themselves and to reverse initial punitive actions.

During the year LIPRODHOR gradually reconstituted itself and denied the parliamentary report's accusations regarding its alleged divisionist character; it also stressed that it had been actively working on behalf of genocide victims. By July LIPRODHOR's web site was functioning again and it had published some reports online that were critical of the government and the gacaca system. In December LIPRODOHR published a 126-page report covering the country's human rights situation in 2003 and 2004. The report criticized government actions in a number of political, judicial, and economic areas. By year's end it was not clear whether LIPRODHOR was handling as many human rights complaints as it had before the government's publication of the 2004 genocide ideology report; however, international human rights observers noted that LIPRODHOR had succeeded in reasserting much of its independence, despite government pressure.

In response to the 2004 parliamentary report on genocide ideology, a group of pro-government domestic NGOs created an NGO "platform," or collective, to manage the

activities of NGOs. Membership was mandatory for all umbrella NGO organizations, and the elections for officers were irregular. During the year the group continued to maintain a role in managing and directing NGOs during the year through the use of umbrella NGOs, which theoretically aggregated NGOs working in particular thematic sectors; however, many observers believed that the government controlled these umbrella NGOs.

The government continued to criticize reports by international observers and international human rights NGOs and was hostile towards those whose reporting was perceived by the government to be biased and inaccurate. During the year Landnet, an umbrella group of NGOs, said that the government prevented one of its meetings (see section 2.b.).

While investigating the disappearances of individuals, an international NGO reported that a government official intimidated and verbally threatened one of its staff members in a government office. There was no discussion of the cases the staff had raised. Instead, the official ordered the staff member to stop asking questions about the disappearances.

During the year and in 2004 AI said the government was “inappropriately manipulating the concept of genocide” to silence not only organizations and individuals critical of the government but also organizations that had a close relationship with the country’s people and whose loyalty the government questioned. The reports said the government’s treatment of LIPRODHOR had “effectively destroyed one of the remaining human rights pillars” of the country’s civil society and “closes the door on human rights monitoring” in the country. In response to the government’s judicial investigations of LIPRODHOR, AI said they “nullified any promise of reconciliation that gacaca contained” and further eroded public confidence in the fairness of the judiciary. But by the end of the year, LIPRODHOR had become operational and critical of the government.

The government’s lead agency for human rights was the National Commission for Human Rights (NCHR), but this organization acted more as a public relations organ of the government. An NCHR commissioner provided evidence and background information to the prosecution at the gacaca hearing of Father Theunis, which local and international observers criticized for lack of fairness (see section 1.e.).

Based on investigations conducted and information collected in late 2004 and part of the year, a UN panel of experts report released on January 25 examined violations of a UN-imposed arms embargo in the eastern DRC. The UN accused the Rwandan government of continuing to routinely and illegally funnel weapons and military support to proxy forces in the DRC that committed human rights violations. The panel also accused the Rwandan government of continuing to maintain a “covert residual presence” in the DRC, despite officially withdrawing in 2002. In addition it said the government was recruiting children of the DRC in Rwandan refugee camps for use as soldiers (see section 2.d.). A July AI report also charged that the government continued to export arms to armed groups in the DRC. The government denied all of the panel’s and AI’s charges.

The ICTR continued to prosecute genocide suspects during the year. Since 1994 the ICTR has delivered 20 verdicts in 27 cases. As of December there were a total of 60 detainees in the court’s seat in Tanzania: 28 on trial, 15 awaiting trial, 8 awaiting transfer, and 9 pending appeal. Unlike in the previous year, there were no reports that the government prevented witnesses from attending and giving testimony, or that it failed to cooperate on ICTR investigations of alleged RPF war crimes. In May 2004 the government publicly criticized efforts by the ICTR to investigate alleged RPF war crimes and said civilian casualties were sometimes an unavoidable consequence of military operations.

After a major increase in 2004 in the number of killings of genocide survivors and of witnesses in gacaca courts of those accused of genocide crimes, parliament investigated the cause of these incidents through an ad hoc commission. There was no information on whether the government continued to investigate the killings of genocide survivors and witnesses during the year.

During the year a Spanish court agreed to hear a suit alleging that the RPF had summarily executed nine of its nationals, including six Catholic missionaries, during the genocide. No additional information was available at year’s end.

During the year a French court began to investigate allegations that French soldiers did not act to end genocide killings.

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

The constitution provides that all citizens are equal before the law, without discrimination on the basis of ethnic origin, tribe, clan, color, sex, region, social origin, religion or faith opinion, economic status, culture, language, social status, or phys-

ical or mental disability. The government generally enforced these provisions; however, problems remained.

Women.—The law does not specifically prohibit domestic violence, and domestic violence against women, including wife beating, was common. Cases normally were handled within the context of the extended family.

The law criminalizes rape, and the government took steps to enforce the law more effectively. The government handled rape cases as priority within its courts and tribunals. From April to July, the judiciary processed a total of 555 rape cases. In recent years, those convicted of rape generally received sentences of between 20 and 30 years' imprisonment. The government recognized rape as a problem, and during the year it took steps to address it, including the classification of rape and other crimes of sexual violence committed during the genocide as a category I genocide crime. It also improved protection at the local level for rape victims testifying at *gacaca* courts. During the year police investigated more than 2,100 cases of rape.

Prostitution was not legal, and it was a problem.

Prostitution and trafficking in women for sexual exploitation were problems (see section 5, Trafficking).

Women continued to face societal discrimination, but the government has multiple programs to combat these traditional practices. Women traditionally performed most of the subsistence farming. Since the 1994 genocide, which left numerous women as heads of households, women assumed a larger role in the formal sector, and many operated their own businesses. Nevertheless, women continued to have limited opportunities for education, employment, and promotion. Government efforts to expand opportunities for women included a clause in the constitution providing that at least 30 percent of the seats in parliament be reserved for women (see section 3). Other efforts included scholarships for girls in primary and secondary school, loans to rural women, and the appointment of a minister in the prime minister's office for family and gender promotion to train government officials and NGOs in methods to increase the role of women in the workforce. The Family Code generally improved the legal position of women in matters relating to marriage, divorce, and child custody. The law allows women to inherit property from their fathers and husbands, and it allows couples to choose the legal property arrangements they wish to adopt; however, in practice it was much more difficult for women than for men to successfully pursue property claims.

The minister of gender and family promotion in the office of the prime minister was the lead government official handling problems of particular concern to women. A number of women's groups were active in promoting women's concerns, particularly those faced by widows, orphaned girls, and households headed by children.

Children.—The government was committed to children's rights and welfare, and it took efforts to improve education and health care to children. Children headed at least 65 thousand households. The government worked closely with international NGOs to secure assistance for children who were heads of households, and sensitized local officials to the needs of children in such situations.

Education is compulsory through primary school or until age 13. While primary school fees were officially waived during the year, most parents still had to pay the fees to support basic school operations. However, children were not dismissed from school for their parents' failure to pay such fees. School fees routinely were waived for orphans. Public schools lacked essential and basic supplies and could not adequately accommodate all children of primary school age. Private primary schools often were too distant or too expensive to serve as an alternative for many children. Examination decided entry to secondary school. According to the Ministry of Education, 93 percent of primary school-age children were enrolled in school. According to the UN Children's Fund (UNICEF), the net primary school enrolment/attendance ratio was 75 percent. Of the children who entered the first grade, 47 percent reached the fifth grade, and the secondary school attendance ratio was 5 percent.

According to UNICEF, 20 percent of women between the ages of 20 and 24 had married or entered into a union before they were 18 years old. The legal age for marriage for both males and females is 21.

There were some cases of trafficking and child prostitution. (see section 5, Trafficking).

Due to the genocide and deaths from HIV/AIDS, there were numerous households headed by children, some of whom resorted to prostitution to survive.

In January a UN panel of experts reported that the government was recruiting children of the DRC living in refugee camps in Rwanda and training them to be soldiers. Residents of a refugee camp in Kiziba, Kibuye Province, said that vehicles drove groups of students across the border into the DRC. The government denied all the panel's charges (see section 2.d.).

During the year there was also a report indicating that a DRC-based armed group was recruiting children from Rwandan refugee camps for use as child soldiers (see section 2.d.). During the year the government continued to support a demobilization and reintegration program, and a total of approximately 600 former child soldiers, all of whom had returned from serving as soldiers in the DRC, received care and reintegration preparation from a demobilization center for children in Ruhengeri Province.

Unlike in the previous year, there were no reports that children were recruited to work for the LDF.

There were cases of child labor (see section 6.d.).

There were approximately six thousand street children throughout the country. Local authorities rounded up street children and placed them in foster homes or government-run facilities. The Gitagata Center housed approximately 400 children, the majority of whom were rounded up by authorities in 2003. The government supported a "childcare institution" in each of the 12 provinces that served as safe houses for street children, providing shelter and basic needs.

Trafficking in Persons.—While there was no specific antitrafficking law, laws against slavery, prostitution by coercion, kidnapping, rape, and defilement were available to prosecute traffickers. No traffickers were prosecuted; however, during the year the government actively investigated cases of sex crimes. The government made significant efforts to fight trafficking despite resource constraints. The government provided training on sex crimes and crimes against children to police as part of the police training curriculum. During the year the national police offered specialized training in recognizing trafficking, particularly trafficking involving children, to 185 police cadets. In 2004 the government opened a forensic laboratory to improve the ability of police to build cases against traffickers. The government monitored immigration and emigration patterns, as well as border areas that were accessible by road.

There were reports that persons were trafficked from and within the country. The country was a source country for small numbers of women and children trafficked for the purposes of sexual exploitation, domestic labor, and soldiering. Unlike in the previous year, there were no reports of women being trafficked internally or to Europe for prostitution, or child victims being trafficked to Burundi and the DRC. The country was a source country for children internally trafficked for the purpose of sexual exploitation. Small numbers of impoverished children, typically between the ages of 14 and 18, were exploited by loosely organized prostitution networks.

Some children of Rwandan background were trafficked over the past decade for forced labor and child soldiering in the DRC. However, according to the UN, more than 200 child soldiers were returned to the country during the year. Although the UN reported in late January that the RDF was recruiting child soldiers, the RDF said it did not recruit child soldiers and condemned this practice (see section 5, Children).

Due to the genocide and deaths from HIV/AIDS, there were numerous children who headed households, and some of these children resorted to prostitution or may have been trafficked into domestic servitude. UNICEF estimated in 2004 that there were 2,140 child prostitutes in the major cities and several thousand street children throughout the country.

The government made efforts to protect the rights of women and children. The government identified the worst forms of child labor, and in collaboration with UNICEF, identified three NGOs to help children working in these sectors (see section 5, Children). The government also sponsored programs specifically designed to alleviate poverty among the poorest families, in which poverty was most often cited as the primary cause of forced child labor. When the government dismantled prostitution rings, it offered women rehabilitation programs, which included work retraining.

Persons with Disabilities.—The constitution provides that all citizens are equal before the law and prohibits discrimination on the basis of physical or mental disability; however, there are no laws specifically prohibiting discrimination against persons with disabilities in regard to employment, education, or access to social services, and few persons with disabilities had access to education or employment. There was no law mandating access to public facilities.

National/Racial/Ethnic Minorities.—Before the 1994 genocide, an estimated 85 percent of citizens were Hutu, 14 percent were Tutsi, and 1 percent were Batwa (Twa). Prior to the 1994 genocide, citizens were required to carry identity cards that indicated ethnicity, a practice that was instituted in 1931 when the country was under Belgian colonial administration. Following the genocide, the government banned all identity card references to ethnic affiliation as divisionist or contributing

to genocide ideology. As a result, the Batwa, purported descendants of the Twa (Pygmy) tribes of the mountainous forest areas bordering the DRC and numbering approximately 33 thousand (less than 1 percent of the population), were no longer designated as an ethnic group. On this basis the government no longer recognized groups advocating for Batwa needs. Batwa said their rights as an indigenous ethnic group were denied as a result of such government policies. However, in October the government permitted the Community of Indigenous People of Rwanda (CAURWA) to register, although it was not recognized as an “indigenous group.” CAURWA had lobbied unsuccessfully for such recognition for years. Despite the registration of CAURWA, most Batwa continued to live on the margins of society with very limited access to education, and they continued to be treated as inferior citizens by both the Hutu and Tutsi groups.

Large-scale interethnic violence in the country between Hutus and Tutsis erupted on three occasions since independence in 1962, resulting on each occasion in tens or hundreds of thousands of deaths. The most recent and severe outbreak of such violence, in 1994, involved genocidal killing of much of the Tutsi population under the direction of a Hutu-dominated government and in large part implemented by Hutu-dominated armed forces called the ex-FAR and Interahamwe militia. The genocide ended later the same year when a predominantly Tutsi militia, operating out of Uganda, occupied Rwandan territory, overthrew that government and established the government of National Unity, which was composed of members of eight political parties and which ruled until the elections in 2003. Since 1994 the government has called for national reconciliation and abolished policies of the former government that were perceived to have created and deepened ethnic cleavages. The constitution provides for the eradication of ethnic, regional, and other divisions and the promotion of national unity. Some organizations and individuals accused the government of favoring Tutsis—particularly English-speaking Tutsis—in government employment, admission to professional schooling, recruitment into or promotion within the army, and other matters; however, the government continued to deny this charge.

Incitement to Acts of Discrimination.—Unlike in the previous year, there were no reports that local government officials incited Tutsi citizens to make false accusations against or discriminate against Hutus.

In its effort to prevent incitement of violence or discrimination and to encourage reconciliation, the government pursued a strict policy of non-recognition of ethnic identities. Government identification cards do not indicate ethnicity, and the government eliminated all references to ethnicity in written and non-written official discourse. There was no government policy of ethnic quotas for education, training and government employment.

Section 6. Worker Rights

a. The Right of Association.—The law provides all salaried workers, including some civil servants, with the right to form and to join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. Although the effects of the 1994 genocide continued to hamper unions, they continued to regroup and assert themselves during the year; however, the government and many employers were opposed to the idea of trade unions operating freely. More than 85 percent of workers were engaged in small-scale subsistence farming, in the informal sector. Approximately 7 percent of the work force worked in the formal (wage) sector. Organized labor represented a small part of the work force.

There were no restrictions on the right of association for non-civil servants; while all unions must register with the Ministry of Labor for official recognition, there were no known cases in which the government denied recognition during the year. However, the law prohibits unions from having political affiliations and from publicly expressing their political opinions.

The law prohibits antiunion discrimination, but there were no functioning labor courts to resolve complaints involving discrimination against unions. Union activists complained that some employers threatened to fire employees who attempted to join a union. The law requires employers to reinstate workers fired for union activity; however, there were no reports that employers had fired employees for this reason.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice; however, the law does not extend this right to agricultural workers. The law provides for collective bargaining, but this right was severely limited in practice; only the Central Union of Rwandan Workers had an established collective bargaining agreement with the government. In addition the government was heavily

involved in the collective bargaining process since most union members were in the public sector. There are no export processing zones.

Participation in unauthorized demonstrations could result in employee dismissal, nonpayment of wages, and civil action against the union. Authorization was not required for union meetings.

The law provides for the right to strike, except for public service workers and workers in essential services. The minister of labor decides what constitutes an essential service. According to the International Confederation of Free Trade Unions, there is an excessively broad definition of so-called essential services in which strikes are prohibited. A union's executive committee must approve any strike, and the union must first try to resolve its differences with management according to steps prescribed by the ministry of labor. This process essentially prohibits strikes. There was one demonstration by union members during the year.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor; however, prisoners were assigned to work details, which generally involved public maintenance duties. Unlike in the previous year, prisoners were not allowed to be hired out to perform work at private residences and businesses. A 2001 presidential decree authorized gacaca courts to sentence convicts to perform community service; in addition suspected genocidaires who confessed were given sentences involving community service.

Unlike in the previous year, there were no reports of forced coltan mining by prisoners, or of other forms of forced labor.

The law does not specifically prohibit forced and compulsory labor by children. Unlike in the previous year, there were no reports that the RCD-G forcibly recruited children.

d. Prohibition of Child Labor and Minimum Age for Employment.—Except for subsistence agricultural workers, who account for approximately 90 percent of the workforce, the law prohibits children under the age of 16 from working without their parents' or guardians' permission and prohibits children under 16 from participating in night work or any work deemed hazardous or difficult, as determined by the minister of labor; however, child labor was prevalent. Night work is defined by the Labor Code as work between 7 p.m. and 5 a.m.; children also must have a rest period of at least 12 hours between work engagements. The minimum age for full-time employment is 18 years, and 14 years for apprenticeships, provided that the child has completed primary school. According to a 2003 UN report, 31 percent of children between the ages of 5 and 14 engaged in child labor, and during the year children headed many households.

The government identified five forms of child labor as those that should be considered as the "worst forms of labor," including domestic work outside the family sphere; agricultural activities on tea, rice, and sugar cane plantations; work in brickyards and sand extraction quarries; crushing stones; and prostitution. During the year child labor persisted in the agricultural sector (particularly on tea plantations), among household domestics, in small companies, and the brick-making industry. In addition child prostitution was a problem. The UN reported in late January that the government recruited children from refugee camps in the country and trained them to be soldiers, although the government denied this report (see sections 2.d. and 5). Children received low wages, and abuse was common. The government did not effectively enforce laws restricting and regulating child labor; during the year there was an insufficient number of labor inspectors.

During the year the government took steps to prevent and reduce the use of child labor. The government worked with NGOs to raise awareness of the problem, to identify children involved in child labor, and to send them to school or vocational training. The government established various programs focused on interventions against child labor, including a joint two-year program with UNICEF begun in 2003, and an International Labor Organization program. In addition local government officials organized an awareness-raising campaign for employers, and the government imposed a fine against those who illegally employ children or send their children to work to the detriment of their education. The government continued to support 12 child labor inspector offices, 1 for each of the country's provinces; however, the government was unable to provide them with adequate resources to effectively identify and prevent the use of child labor.

e. Acceptable Conditions of Work.—The Ministry of Public Service, Skills Development, and Labor set minimum wages in the small formal sector. The government, the main employer, effectively set most other wage rates as well. According to the Ministry of Labor, there is no single minimum wage; minimum wages varied according to the nature of the job. The minimum wages paid did not provide a decent standard of living for a worker and family, and in practice workers accepted less

than the minimum wage. Families regularly supplemented their incomes by working in small businesses or subsistence agriculture.

Officially, government offices and private sector entities had a 40-hour workweek; the maximum workweek was 45 hours. The government mandated that the workday begin at 7 a.m. and end at 3:30 p.m., with a 30-minute break for lunch. There was no mandated rest period. The law regulates hours of work and occupational health and safety standards in the formal wage sector, but inspectors from the Ministry of Public Service did not enforce these standards aggressively. Workers did not have the right to remove themselves from dangerous work situations without jeopardizing their jobs.

SAO TOME AND PRINCIPE

The Democratic Republic of Sao Tome and Principe is a multiparty democracy with a population of approximately 160,400. Fradique De Menezes was elected president of the country in 2001, and parliamentary elections were held in 2002; international observers deemed both elections free and fair. On June 2, Prime Minister Damiao Vaz D'Almeida resigned, which resulted in the dissolution of the government. President De Menezes appointed Maria do Carmo Trovoada Silveira to replace D'Almeida and formed a new government. Legislative elections were scheduled for March 2006. Civilian authorities generally maintained effective control of security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. Poverty and unemployment exacerbated some of the following human rights problems:

- harsh prison conditions
- prolonged pretrial detention
- occasional political influence on the judiciary
- official corruption
- violence and discrimination against women
- child labor
- harsh labor conditions

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 that the government or its agents committed arbitrary or unlawful killings.

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 and Detention Center Conditions.—Prison conditions were harsh but not life threatening. Facilities were overcrowded, and food was inadequate. Some pretrial prisoners were held with convicted prisoners.

The government permitted human rights monitors to visit prisons; however, there were no visits during the year.

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

Role of the Police and Security Apparatus.—The Ministry of National Defense and Internal Affairs supervises and controls the military, the police, and immigration. The police were ineffective and widely viewed as corrupt. Impunity was a problem, and efforts to reform the Criminal Investigation Police, a separate agency under the Ministry of Justice, were ineffective, primarily due to inadequate resources.

Arrest and Detention.—The law requires arrest warrants issued by an authorized official to apprehend suspects unless the suspect is caught during the commission of a crime. The law provides for a determination within 48 hours of the legality of a detention, and authorities generally respected this right in practice. Detainees were allowed access to attorneys and family members, and indigent detainees were provided attorneys by the state. There was a functioning bail system.

There were no reports of political detainees.

Severe budgetary constraints, inadequate facilities, and a shortage of trained judges and lawyers resulted in lengthy pretrial detentions. According to the Sao

Tome Supreme Court, 75 percent of the country's 155 prisoners were awaiting trial as of October, and some pretrial detainees had been held for more than a year.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, at times, the judicial system was subject to political influence or manipulation. The government set judicial salaries, which remained low, and suspicion persisted that judges may be tempted to accept bribes. During the year, the government took steps to strengthen the judiciary.

The legal system is based on the Portuguese model. The court system has two levels: circuit courts and the Supreme Court. The Supreme Court is the appellate court of last resort.

Trial Procedures.—The law provides for the right to a fair public trial, the right of appeal, the right to legal representation, and, if indigent, the right to an attorney appointed by the state. Defendants are presumed innocent, have the right to confront witnesses, and to present evidence on their own behalf. However, inadequate resources resulted in lengthy pretrial detentions and greatly hindered investigations in criminal cases.

Political Prisoners.—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. Journalists practiced self-censorship.

Two government-run and six independent newspapers and newsletters were published sporadically, usually on a monthly or biweekly basis; resource constraints determined publishing frequency. All parties freely distributed newsletters and press releases stating their views and criticizing the government, the president, and one another.

Television and radio were state operated. There were no independent local stations due to financial and market constraints; however, there were no laws prohibiting such stations. The Voice of America, Radio International Portugal, and Radio France International were rebroadcast locally. The law grants all opposition parties access to the state-run media, including a minimum of three minutes per month on television.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of peaceful assembly and association, and the government generally respected these rights in practice.

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

Societal Abuses and Discrimination.—There was no known Jewish community and no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 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 does not prohibit forced exile; however, there were no reports that the government used it.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention regarding the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. In practice, the government provided protection against refoulement, the return of persons to a country where they feared persecution. During the year there were no known requests for refugee or asylum status. In the past the government cooperated with the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

The law provides citizens with the right to change their government peacefully, and citizens have exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—President De Menezes was elected in a 2001 election that international observers deemed free and fair. In 2002 President De Menezes dismissed Arcanjo Ferreira da Costa; subsequently a 13-member coalition government was formed under Maria das Neves. In September 2004 De Menezes dismissed das Neves for corruption and appointed Damiao Vaz D'Almeida as prime minister. On June 2, Prime Minister D'Almeida resigned, and the Movement for the Liberation of Sao Tome and Principe-Social Democratic Party (MLSTP) withdrew from the government; both the prime minister and the MLSTP attributed their actions to the president's alleged corruption. D'Almeida was replaced by Trovoada Silveira, who formed a new government.

After a 2003 failed military coup, President De Menezes signed a framework agreement with the perpetrators of the attempted coup, which included a pledge to establish a national consensus on the country's developmental priorities. The resulting plan of action recommended: The conversion from political party-based to geographically-based representation in the National Assembly; improvement in living conditions of the army; land and agricultural reform; establishment of legal and regulatory measures to manage the country's oil wealth; and improvement in the education and health sectors.

There were 5 women in the 55-seat National Assembly; 3 of the 14 cabinet ministers were women, including the Prime Minister; and the president of the 3-member Supreme Court was a woman.

Government Corruption and Transparency.—Official corruption was widespread, and allegations of corruption resulted in the government's dissolution during the year. In June Prime Minister D'Almeida resigned and the MLSTP party withdrew from the government, alleging that President De Menezes awarded oil rights within the Nigerian-Sao Tomean Joint Development Zone in an allegedly corrupt and non-transparent manner. The attorney general was investigating the allegations at year's end. In May Oil Minister Arlindo de Carvalho resigned, citing similar irregularities in the contracting process. Low salaries for civil servants contributed to public corruption (see section 6.e.).

There were no laws that provided for public access to government information; however, the government took steps during the year to improve transparency, including passage of a law governing the use of oil revenues.

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

In the past a small number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, with the general improvement in human rights, such groups were inactive during the year. Government officials generally had been cooperative and responsive to their views.

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

The law provides for the equality of all citizens regardless of sex, race, racial origin, political tendency, creed, or philosophic conviction, and while the government actively enforced these provisions, women faced discrimination.

Women.—Domestic violence against women occurred, including rape, but the extent of the problem was unknown. Although women have the right to legal recourse—including against spouses—many were reluctant to bring legal action or were ignorant of their rights under the law. Tradition inhibited women from taking domestic disputes outside the family.

Rape, including spousal rape, is illegal and punishable by 2 to 12 years' imprisonment.

Prostitution is illegal; however, it occurred.

The law does not prohibit sexual harassment, and it was a problem.

The law stipulates that women and men have equal political, economic, and social rights. While many women have access to opportunities in education, business, and government, in practice women still encountered significant societal discrimination. Traditional beliefs left women with most child-rearing responsibilities and with less access to education and to professions; a high teenage pregnancy rate further reduced economic opportunities for women. An estimated 70 percent of households were headed by women.

Children.—A number of government and donor-funded programs operated to improve conditions for children, notably an ongoing malaria control project and acquisition of school and medical equipment.

Education was universal, compulsory through the sixth grade, and tuition-free to the age of 15 or grade 6. In practice some rural students stopped attending school after the fourth grade. Enrollment in primary school was estimated at 74 percent.

Students were responsible for buying books and uniforms although the government provided both free to children from poor families. Transportation and tuition costs prevented some poor or rural-based students from attending secondary school. There were no differences between the treatment of girls and boys in regard to education.

Mistreatment of children was not widespread; however, there were few protections for orphans and abandoned children.

Child labor was a problem (see section 6.d.).

During the year a social services program within the Ministry of Labor collected street children in three centers where they received classes and training. Conditions at the center were good; however, because of overcrowding some children were returned to their families at night, and a few of these children ran away. Children who stayed full time at the center did not run away.

Trafficking in Persons.—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—The law does not prohibit discrimination against persons with physical and mental disabilities; however, there were no reports of discrimination against such persons. The law does not mandate access to buildings, transportation, or services for persons with disabilities, and local organizations have criticized the government for not implementing accessibility programs for persons with disabilities.

Other Societal Abuses and Discrimination.—There was societal discrimination against homosexuals. Persons with HIV/AIDS were generally rejected by the communities in which they lived and shunned by their families. However, the government provides free AIDS testing and distributed antiretroviral drugs to some patients.

Section 6. Worker Rights

a. The Right of Association.—The law provides for freedom of association, and workers generally exercised this right in practice. Only two unions existed in the very small formal wage sector: the General Union of Workers and the National Organization of Workers of Sao Tome and Principe. Both represented government workers, who constituted the majority of wage earners, and members of farmers' cooperatives.

There were no laws prohibiting antiunion discrimination; however, there were no reports of such discrimination.

b. The Right to Organize and Bargain Collectively.—The law provides that workers may organize and bargain collectively; however, due to its role as the principal employer in the wage sector, the government remained the key interlocutor for labor on all matters, including wages. There are no export processing zones.

The law provides for the freedom to strike, even by government employees and other essential workers, and workers exercised this right in practice. On May 30, government workers conducted a nationwide strike for higher wages, which resulted in a negotiated settlement on August 6. The terms of the settlement had not been implemented by year's end.

The law does not prohibit retaliation against strikers, but there were no such reports during the year.

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

d. Prohibition of Child Labor and Minimum Age for Employment.—Employers in the formal wage sector generally respected the legally mandated minimum employment age of 18; however, child labor was a problem. The law prohibits minors from working more than 7 hours a day and 35 hours a week. Children were engaged in labor in subsistence agriculture, on plantations, and in informal commerce, sometimes from an early age. Although no cases of child labor abuses were prosecuted, the law states that employers of underage workers can be fined.

e. Acceptable Conditions of Work.—There was no national minimum wage. The legal minimum wage for civil servants was \$40 (400 thousand dobras) per month, which was insufficient to provide a decent standard of living for a worker and family. Working two or more jobs was common, and labor law specifies areas in which civil servants may work if they pursue a second job. Civil servants in "strategic sectors," such as the court system; the ministries of finance, customs, education; and the Criminal Investigation Police, earned up to 400 percent more than other public service employees.

Working conditions on many of the cocoa plantations—the largest wage employment sector—were extremely harsh. The average salary for plantation workers did

not provide a decent standard of living for a worker and family, and the real value of their pay was further eroded by a high rate of inflation. During the year contaminated water led to cholera outbreaks, including one in April on the Ferreira Governo plantation, where 26 of the plantation's 135 workers fell ill, and 1 died.

The legal workweek is 40 hours with 48 consecutive hours mandated for rest. Shopkeepers worked 48 hours a week. The law provides for compensation for overtime work. The law prescribes basic occupational health and safety standards; however, resource constraints hindered the Ministry of Justice and Labor's enforcement of these standards. Employees have the right to leave unsafe working conditions.

SENEGAL

Senegal, with an estimated population of 10.1 million, is a moderately decentralized republic dominated by a strong presidency. In 2000 Abdoulaye Wade, backed by a coalition of opposition parties, became president in an election generally viewed as free and fair. The current National Assembly was elected in 2001 in a free and transparent election. The civilian authorities generally maintained effective control of the security forces.

The government generally respected citizens' rights; however, there were problems in some areas. The government made some improvements during the year and in April the National Assembly passed a law prohibiting human trafficking. However, there was a growing feeling that political considerations unduly influenced many government decisions, in some cases due to a widening rift within the majority Democratic Party of Senegal (PDS) between President Wade and former Prime Minister Idrissa Seck. The following human rights problems were reported:

- several unlawful killings were committed by security forces
- cruel and degrading treatment of detainees and prisoners
- overcrowded prisons
- questionable investigative detention and prolonged pretrial detention
- corruption and impunity
- some limits on freedom of speech and of the press
- restrictions on freedom of assembly
- domestic violence, rape, sexual harassment, discrimination against women, and female genital mutilation (FGM)
- abuse of children, child marriage, and infanticide
- trafficking in persons
- child labor

There were reports that Movement of Democratic Forces of the Casamance (MFDC) rebels killed at least 7 to 10 government security and civil service personnel, as well as one civilian, committed robberies and harassed local populations.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Neither the government nor its agents committed any politically motivated killings; however, there were several killings by security forces during the year.

On March 10, customs officers shot and killed a 20-year-old man named Libasse Kane in an incident involving the arrest of sugar smugglers in the city of Mbour. Kane was shot in the chest. Local police arrested four customs officers before they were granted conditional release pending completion of the investigation.

In April a man named Amadou Moctar Beye held in investigative detention at the research brigade of the gendarmes in Dakar was reported dead in his cell. Gendarmes indicated that Beye committed suicide, but the victim's family rejected this version of events.

Also in April gendarmes accidentally killed a 13-year-old boy, Assane Fall, and injured a man, Mamadou Fall, while pursuing a suspected drug trafficker in Mbour. According to reports, police were attempting to commandeer a fisherman's boat to pursue the trafficker, but the fisherman refused. As a result, the police opened fire. An investigation was ongoing at year's end.

On June 12, in the town of Kayar, gendarmes fired on and killed a fisherman and injured several others, including a 10-year-old child. This incident occurred as the

gendarmes intervened to put an end to the fighting between two communities of fishermen.

In November in Touba, a police officer fatally kicked a 21-year-old who began to run in panic after seeing a man in uniform. Officials negotiated with the young man's family, and no arrest was made.

In December a customs officer killed two smugglers during an altercation near Richard Toll. In a highly unusual move, the Customs Office issued a statement saying they "regretted the incident." No further action was taken at year's end.

No action was taken against government soldiers responsible for the 2003 killing of a man in Mandina Mancagne.

According to statistics from Handicap International, landmine accidents in Casamance continued to decline. However, on April 12 an anti-tank landmine exploded in the area of Sare Tening in Kolda, killing one government soldier and wounding two others.

Despite a December 2004 government and rebel-signed ceasefire, there has been increased violence in Casamance, particularly near the Senegal-Gambia border. In April a teacher was killed; MFDC rebels and the government blamed each other for the killing. In an August 5 attack on a public transport vehicle in the village of Mampalago, MFDC rebels discovered and executed two off-duty soldiers dressed in civilian clothing.

On June 22, one gendarme was killed in the Casamance causing some tension with The Gambia when the perpetrators, allegedly MFDC rebels and a Basque terrorist from Spain, fled across the border. Although briefly detained by Gambian authorities, they were ultimately released and remained in The Gambia at year's end.

Unlike in the previous year, there were no reports of mob killings, but there was an increase in injuries caused by mob violence (see section 1.c.).

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

Although human rights groups noted the government took steps to prevent disappearances, they continued to criticize the government for its unwillingness to resolve older cases of disappearances linked to government security forces, particularly in Casamance.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were occasional reports that government officials employed them.

Although human rights groups noted fewer examples of physical abuse committed by security forces, they claimed poor training and supervision led to cruel and degrading treatment in prisons and detention facilities. In particular, they criticized strip search and interrogation methods. The police criminal investigation division (DIC) often required suspects to wait six hours or more before actually questioning them and may hold people up to 24 hours before releasing them. Police also reportedly forced detainees to sleep on the floor without any bedding, direct bright-lights at their pupils, and beat them with batons.

In November three volunteers at a military camp were seized by the security forces there, stripped naked in front of the hundreds of other volunteers, and had acid poured on their genitals. The forces responsible then shaved the initials, "GMI" (the title of the security forces) onto their heads. The affair was referred to the Police Commissariat in the city of Thiaroye where it occurred.

The case of the 2003 assault on Talla Sylla, leader of the opposition political party Jef-Jel, was closed, since it came under the Ezzan Amnesty Law (see section 1.d.).

Unlike in previous years, there were no reported human rights abuses committed by security forces deployed to Casamance.

Similarly, there were no reports that MFDC rebels sexually assaulted women in northern Casamance. There were no known government efforts to investigate claims of sexual abuse by rebels, since the amnesty law covered the alleged abuses.

There have been many reports of armed banditry in the Casamance. For example, on May 11 armed individuals opened fire on a motorcyclist and then held up all of the passengers in a vehicle, robbing them of all their possessions. One of the passengers was injured by gunfire. On December 1, there was an armed robbery on a car belonging to a micro-credit institution, leading to one death and one injury.

According to statistics from Handicap International (HI), landmine accidents in Casamance continued to decline. After recording 17 civilians injured by landmines in 2004, HI reported 10 injuries by year's end. It is unknown who left the mines responsible for these accidents.

There is a growing problem with the use of mob justice to address crimes. In September in the town of Guediawaye, a taxi driver was stopped and severely beaten by bystanders, after he demanded a young female passenger give him all her belong-

ings. He was brought to the police and charged with theft and aggression. In October a thief who was caught in the act of perpetrating his crime in Dakar was tied up, beaten, and severely burned. Those who had captured him took him to the police. The police arrested him, and let the vigilantes depart.

Prison and Detention Center Conditions.—Prison and detention center conditions were poor. The National Organization for Human Rights (ONDH), a local human rights NGO, identified overcrowding as the major problem facing the country's prisons. At Dakar's Central Prison, which has a maximum capacity of 500 persons, 1,500 were detained. At the penal camp in Dakar, 799 individuals were held in a facility with a 400-person capacity, and 32 guards. In Diourbel detainees were held outside in a former horse stable, sometimes up to 48 hours at a time.

According to media reports, the government has not constructed a new prison since 1960. Some facilities were buildings that were adapted and modified to be prisons. Due to old and overburdened infrastructure, prisons experienced drainage problems during the rainy season and stifling heat during the summer. Prisons lacked doctors and medicine to provide care for sick inmates, forcing them to be evacuated for treatment. One NGO reported a national ratio of one doctor per five thousand inmates and said the government spent only \$.66 (350 CFA francs) daily per inmate to cover all costs. There was approximately one mattress for every five detainees.

Human rights groups and attorneys documented several irregularities concerning Idrissa Seck's detention at Rebeuss prison (see section 3). They noted that two guards were always present to monitor Seck's conversations with visitors despite guard shortages at other prisons, a metal detector was installed and used only for Seck's visitors, some individuals were prohibited from visiting Seck, and prison authorities opened Seck's private correspondence.

During the summer prisoner Abatalib "Ino" Samb died at a local hospital after his transfer from Dakar's central prison. He died from illness brought on by adverse conditions in the prison.

Although pretrial detainees were usually held separately from convicted prisoners, as required by law, they were occasionally kept with convicted prisoners and children due to limited space. Local NGOs reported that prisoner separation regulations were not enforced consistently.

The government permits certain prison visits by independent human rights monitors. During the year, ONDH continued its fact-finding review of prison conditions with the government's consent and assistance. The Senegalese Committee for Human Rights, the Parliamentarian Network for Human Rights, and a group of Catholic priests also visited prisons during the year.

Representatives of the Assembly for the Defense of Human Rights (RADDHO) were denied access to prisoners during the year. RADDHO reported that the lack of adequate health care facilities means that some people with mental disorders were being kept in prisons.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, authorities at times arbitrarily arrested and detained persons. Human rights groups saw arbitrary detention as a growing problem.

Role of the Police and Security Apparatus.—Both police and gendarmes are responsible for maintaining law and order in the country. The army shares that responsibility in exceptional cases, such as when a state of emergency is announced. The police force contains 10 departments as part of the Directorate General of National Safety. In each of the country's 11 regions, police have at least one police station and at least one mobile safety brigade. Dakar has more than 15 police stations, which are spread throughout the city.

Impunity and corruption were problems. In Amnesty International's (AI) 2004 annual report, the security forces in the Casamance were cited for impunity. Specific examples included an amnesty law passed in 2004 that covered all actors except those who committed assassinations "in cold blood." There is also the example of the release without punishment of individuals caught in the act of committing a crime. However, police officer Abdoulaye Gaye and soldier Babacar Faye were convicted and sentenced to eight years in prison after committing an armed robbery of a gas station in Ziguinchor in 2002.

According to human rights groups, attorneys and alleged victims, security forces regularly and openly extorted money from detainees in exchange for release and from prostitutes to overlook noncompliance with the legalized prostitution regime and other laws (see section 5).

The government used security forces, especially the DIC, to harass political opponents and journalists. For example, two dozen persons close to ex-prime minister Seck were interrogated as part of his case as well as several journalists.

In February the military tribunal in Dakar delivered a verdict in the trial of two gendarmes accused of torturing a suspected criminal in 1993. Atoumane Sylla was released for lack of proof, and Medoune Diouf was sentenced to two years in prison without parole and ordered to pay compensation of \$15,100 (8 million CFA francs) to the victim. Despite this prosecution, many felt suits against security officials were often blocked, allowing violators to go unpunished. No other security personnel accused of past human rights violations, including disappearances and brutality, were charged or prosecuted during the year.

There were no known developments in the 2004 arrest of Port of Dakar customs officers for committing fraudulent and corrupt practices in clearing incoming goods, or the 2003 case of a police chief charged with corruption. The customs officers were granted release pending trial and without being required to pay bail. Their cases were pending at year's end.

According to human rights groups, new members of the police force received training in human rights protection. In July a local human rights group conducted a seminar with security forces on respect for human rights. A foreign government has also helped facilitate training of the police force in a number of areas, such as crisis response, airport security, hostage negotiation, and trafficking in persons; however, it appeared that most training was limited to Dakar.

Arrest and Detention.—Although the law specifies that warrants issued by judges are required for arrests, police often lacked warrants when detaining individuals in practice. The law grants police broad powers to detain prisoners for lengthy periods of time before filing formal charges. Many detainees were not promptly informed of the charges against them. Under the law, police officers may hold suspects as part of an investigation without filing formal charges for up to 48 hours. Investigators can request that a prosecutor double this to 96 hours. For cases involving threats to state security, both detention periods are doubled, meaning that someone accused of threatening public order could be held up to 192 hours. The clock on investigative detention does not begin until authorities formally declare that an individual is being detained, a practice human rights groups criticized for creating unreasonably long detention periods. Bail is possible but was rarely used. During the first 48 hours of detention, the accused has no access to an attorney but has the right to a medical exam and possible access to family. Family access was not generally allowed as police tended to isolate detainees during investigation phase. If necessary, a prosecutor can also demand a medical examination of the accused. The accused has the right to an attorney after this initial period of detention at the accused's own expense. Attorneys are provided at public expense to all criminal defendants when they cannot afford one. A number of NGOs also provide legal assistance and/or counseling to those charged with crimes.

Human rights groups claimed that opposition leader Abdourahim Agne, arrested and detained for 15 days in June, was a political detainee. After Agne gave a public speech calling on citizens to take to the streets to demonstrate dissatisfaction with the government, he was arrested for threatening national security and later granted conditional release. His case was still pending at year's end. In almost every case involving security forces, the case is permitted to languish indefinitely as a political tool. In some cases, they are left pending to quiet the defendants. In others, the goal appears to be to wait so long that the public will forget or lose interest.

On November 24, police arrested Yankhoba Diattara, ex-prime minister Seck's political assistant and leader of the political party, Forces Integrees Pour la Democratie et la Liberte (FIDEL). He was arrested for compromising public security, following his public announcement on Sud FM, a popular radio station, that he wished his comrades to "welcome" President Wade to Thies. Wade's visit to Thies was marked by violent protests. On December 2, Diattara was sentenced to six months in prison.

According to the law, the accused may not be held in pretrial detention for more than six months for minor crimes; however, prisoners were routinely held in custody unless and until a court demanded their release. Despite the six-month limit on detention for most crimes, the average time between charging and trial was two years. ONDH claimed many detainees were held for years awaiting trial. In September the Court of Assises of Dakar acquitted Abdou Diakhate after seven years of pretrial detention. Judicial backlogs of up to 400 cases contributed to long pretrial detention periods. In cases involving murder, threats to state security and embezzlement of public funds, there are no limits on the length of pretrial detention. Judges are allowed the time necessary to investigate these more serious cases, but may order release pending trial with the prosecutor's consent. If a prosecutor disagrees with a judge's decision to order release, the order is frozen until the appeals court decides to grant or deny the release. Under the law, the prosecutor has total discretion to deny provisional release pending trial for cases involving threats to state security.

However, since judges lacked sufficient time to review all cases, orders to extend detention were often signed without individual consideration of the facts to avoid releasing potentially guilty detainees. Unlike in the previous year, there were no reports that authorities at Dakar's Central Prison held foreign nationals in inhumane conditions while they awaited repatriation.

Amnesty.—In February President Wade promulgated the Ezzan Amnesty Law, named after the PDS deputy who sponsored it. The law pardons all politically motivated crimes committed between January 1, 1983 and December 31, 2004. Opposition parties argued that the law was unconstitutional, but the court validated the most significant portions in February, letting the law stand. Local human rights groups unanimously denounced the law and asked the African Human Rights Commission to intervene. The commission had not acted on the request by year's end.

The International Human Rights Federation and AI criticized the law for encouraging impunity. In July Cheikh Oumar Sy became the first person to benefit from the law. Sy had been in pretrial detention for five years, for arson, death, and inciting rebellion, all of which were allegedly committed just prior to 2000 presidential elections.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, the judiciary was subject to government influence and pressure.

Magistrates began to publicly criticize terrible working conditions, including overwhelming caseloads; low pay; lack of paper, computers, and telephones; and inadequate transportation. In response to pay raises for deputies of the National Assembly, in October 2004 magistrates openly questioned the government's commitment to protecting judicial independence, despite promises of a pay raise in 2006. While the Superior Council for the Magistrature had responsibility over judicial assignments and promotions, several attorneys said it did not meet regularly to take action on appointments, leaving the decisions to the executive branch. Even when it did meet, magistrates said the president could veto council decisions. The president also had the power to raise judicial salaries.

Some argued that because of these presidential prerogatives, judges were subject to executive influence. A human rights organization claimed one of the most clearer examples of this were public comments about the extradition case of former Chadian leader Hissene Habre made while the legal proceedings were still underway. Other cases cited include the several times during the year when political leaders made public statements, which were followed the next day by related arrests.

Justice ministry officials have substantial authority to influence judicial procedures by keeping suspects in pretrial detention (see section 1.d.).

Based on French civil law, the judiciary is composed of ordinary courts and several higher and special courts, including the Council of State, the Constitutional Council, the Court of Final Appeal, and the Accounting Court. These courts remained understaffed. The High Court of Justice, which presides over cases against officials for acts committed in an official capacity, is composed of eight national assembly deputies and one professional judge. Three-fifths of all deputies must vote to pass a resolution to permit prosecution of a head of state or minister. If a resolution is so passed, the high court can convene.

The National Assembly elects the eight deputy members of the high court plus eight substitutes at the beginning of each session. The court then has the authority to convict and sentence or acquit. Many of the special courts, such as the Special Unlawful Enrichment Court that was established to try corruption cases against public officials, were dormant during the year.

In August for only the second time since independence, the high court was convened in the Thies Public Works corruption case against ex-prime minister Idrissa Seck. Seck was arrested in early July, along with several other persons. He was charged with embezzlement of public funds from public works projects in the city of Thies, being a threat to national security, and illegal correspondence. With the exception of police inspector Coumba Ngouye Thiam, most of his co-defendants have been granted conditional release. Seck has been kept in Dakar's Reubeuss prison. In December one of his attorneys, Djibril Diallo, was arrested and charged as an accomplice in the "illegal correspondence" charge. Approximately 200 lawyers agreed to defend him. The head of Seck's defense team, Boukounta Diallo, reported being harassed and threatened with prosecution. The case against Seck was ongoing at year's end.

While civil court judges are empowered to preside over civil and customary law cases, one option available is to turn disputes involving family matters over to religious judges, who act as advisors in such issues. Religious law has been incorporated into the country's laws (see section 2.c.).

Trial Procedures.—Defendants have the right to a public trial, to be present in court, confront witnesses, present evidence, and have an attorney. Only defendants charged with serious crimes, such as murder, have the right to a jury trial. They are tried in the Cour d'Assises, a special court meeting just once or twice a year. Attorneys are provided at public expense to all criminal defendants when they cannot afford one. Evidentiary hearings may be closed to the public and the press, but defendant and counsel have access to all evidence presented and may introduce their own evidence before the investigating judge decides to refer a case for trial. A panel of judges presides over ordinary courts in civil and criminal cases. Jurors also sit on the panels during special sessions of the criminal court. Defendants are presumed innocent. The right of appeal exists in all courts, except for the unlawful enrichment court, the Cour d'Assises, and the High Court of Justice.

There is a separate system of military courts for the armed forces and gendarmerie. Military courts may try civilians only if they were involved with military personnel who violate military law.

Political Prisoners.—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; however the government limited these rights in practice. Journalists continue to practice self-censorship.

Individuals could generally criticize the government publicly or privately without reprisal, and the government generally did not attempt to suppress criticism.

The public had four sources for news: print, radio, television, and, increasingly, the Internet. There were at least 15 independent and 3 government-affiliated dailies and several weekly newspapers and magazines. Publishers were not required to register with the government prior to starting a publication.

Due in part to high adult illiteracy rates, radio was the most important medium of mass information and the main source of news. At year's end more than 73 radio frequencies have been assigned to 3 different types of stations: community radio stations, public stations, and private commercial stations. All community and private commercial stations can broadcast national news and political commentary; community radio stations tend to focus on local and "grassroots" issues.

Community radio operators criticized what they saw as a lack of transparency in radio frequency assignments. After the Ministry of Information receives a frequency request, officials decide whether to approve the request based on financial viability, station ownership information, and program content. If the ministry approves the request, the Agency for Regulation and Communication (ART) renders a technical judgment on the request based upon frequency strength and location. Once ART gives technical approval, the ministry grants the frequency.

Although an administrative law is in place to regulate frequency assignments, government officials and community radio operators disagree on its usefulness. There has been an increase in the number of people starting their own radio stations, often controlled by single religious, political, or ethnic groups. Although they obtain their frequencies legally, they often fail to follow labor and other business regulations, such as the payment of taxes.

The government maintained a monopoly on national television coverage through Radio Television Senegal (RTS), a parastatal corporation. In July 2004 privately financed RTS/2S television began broadcasting; however, it broadcast only cultural and entertainment programming and no news. French- and South African-owned satellite television services offered international programming and international news. Neither of these services provided domestic news coverage.

Under national media laws, the government must hold a majority interest in RTS at all times, and the president directly or indirectly controls selection of all members of the 12-person RTS executive staff. RTS's broadcasting fee structure left RTS officials with significant discretion when demanding fees for programs not financed through government funds (the government paid for some broadcasts). Several human rights and journalist groups criticized the fact that some religious leaders were able to broadcast for free while other groups paid.

Some encroachments on press freedom were linked to the ongoing public corruption case against Idrissa Seck (see section 3). In July the information and justice ministers threatened to charge any media institution broadcasting or printing extracts from compact discs (CDs) released by Seck with divulging state secrets and threatening national defense. In August police questioned two journalists, Latif

Coulibaly and Birima Fall, for their possible involvement in the public release of two CDs from Seck.

On October 17, police halted broadcast operations of the national radio station Sud FM after it aired an interview with Salif Sadio, a military leader of the MDFC. More than 24 Sud FM staff members were detained for police questioning but all were released by the end of the day. Sud FM returned to the airwaves that same evening. Key managers of the Sud Communications Group, including President Babacar Toure, were ordered to appear before a Dakar Regional Court on January 6, 2006 to face charges of being a threat to national security. They were charged as accomplices of Sadio. However, on January 6, 2006, the government announced they were dropping all charges against Sud Communications. Sadio, who refused to appear in court, was sentenced in absentia to five years in prison, and a warrant was issued for his arrest.

On November 12, in response to the Sud FM affair and other encroachments on freedom of the press, members of a broad spectrum of the media organized a march in support of freedom of the press and ending the harassment of journalists. The march was joined by politicians, union members, and members of civil society.

Several groups believe failure to enforce regulations on establishing media outlets and distributing government-provided media assistance has led to a proliferation of media outlets, both print and audiovisual, which are unprofessional and politicized. Journalists and human rights groups maintained that some media outlets were created solely to refute antigovernment criticisms and defend the government. After the Madiambal Diagne case, journalists were increasingly concerned about what they believe are government efforts to control media content by giving or withholding money. The government frequently uses subsidies or more direct means to put pressure on the media not to publicize certain issues.

In December the National Council for the Regulation of Audiovisual Media (CNRA) was created to replace the High Audiovisual Council (HCA). Its mission is to respect pluralism and ethics. However, with its members chosen directly by President Wade, it gives his administration more control over the media.

In May filmmaker Joe Gai Ramaka was interrogated by the DIC regarding a film he was preparing about President Wade's regime.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—Although the law provides for freedom of assembly, the government interfered with this right in practice. During the year the government repeatedly denied public permits for civil society and opposition demonstrations.

According to human rights groups, the government refused to authorize planned demonstrations for war veterans, Idrissa Seck's and Abdourahim Agne's release, and against the Ezzan Amnesty Law. These groups complained of undue delays when waiting for a government response to authorization requests and majority-organized "counter demonstrations" to show popular support for the government.

In a new form of protest, citizens began wearing red armbands during demonstrations to express displeasure with government policy, particularly during visits by high-level officials. Even members of the governing party wore red armbands to show their lack of support for various initiatives. In November persons protesting the visit of President Wade to Thies wore red armbands to express their support for ex-Prime Minister Seck. Violent protests occurred in a few cities. In the city of Mbacke, three high school students were wounded, one of whom lost part of his arm from the explosion of a tear-gas grenade.

Unlike previous years, there were no reported killings of demonstrators. However, many demonstrations were banned this year. Although guaranteed by the constitution, the government issued administrative orders on several occasions to prohibit demonstrations, especially those initiated by political opponents. At times, the ruling party staged counter-demonstrations, such as on April 12, when it sought to prevent a Coalition of Opposition Parties (CPC) protest demanding more action by security forces during counter-demonstrations. In August a group of civil society and political leaders attempted to stage a demonstration to demand Seck's release, despite a ban on such protests. The police detained some of the protestors for 24 hours.

In November six young men were arrested for staging an unauthorized demonstration in Kolda. They went to trial, won their case, and were released on November 30 after nine days of detention.

There was no reported progress in the investigation into the September 2004 death of a demonstrator in Mampatim.

On May 23, a party rival stabbed and injured Madiop Biteye, leader of MEEL (the youth movement of the ruling PDS). This was one of several cases of political violence that have characterized internal competition within PDS. The perpetrator of

the attack, Bacary Traore, a law student at Cheikh Anta Diop University in Dakar, was sentenced to six months' imprisonment.

Freedom of Association.—The law provides for freedom of association, and 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.

Any religious group that wants to form an association with legal status must register with the Ministry of Interior in accordance with the civil and commercial code. Registration was generally granted.

Unlike other religious groups, Muslims have the right to choose Muslim-based laws contained in the family code for marriage and succession cases. Civil court judges can preside over civil and customary law cases, but many disputes were turned over to religious judges for adjudication, particularly in rural areas (see section 1.e.).

Societal Abuses and Discrimination.—There was no reported progress in the investigation into January 2004 death threats made against the country's Catholic clergy.

There were no reports of anti-Semitic acts. There is no significant Jewish community in the country. Most resident Jews are Israeli, American, or French citizens and number less than one hundred.

For a more detailed discussion, see the 2005 *International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. However, there were three notable exceptions during the year. Mamadou Alassane "Bro" Mbaye was arrested on March 23 at Dakar-Yoff Airport when he was about to leave for Italy. Mbaye was detained for several hours in connection with a statement he made the day before, alleging that the accidental death of his brother, Ismaila Mbaye, was suspicious. Ismaila was one of President Wade's bodyguards and was under investigation for the attack against political opponent Talla Sylla.

In November journalist Madiambal Diagne, who was detained in inhumane prison conditions in 2004 then later released, had his passport seized when attempting to board a flight to France for a media seminar. He was asked to report to the DIC the following day where his passport was returned to him after several hours of questioning.

In December Oumar Sarr, a Deputy in the National Assembly and defector from the PDS, was prevented from flying to Morocco, where he was to attend a conference of local governing bodies. He was given no explanation as to why he was not permitted to board his plane. The day before, he had introduced an amendment in the National Assembly to extend the mandate of the president of the assembly, angering the PDS. By the time he was permitted to fly, the conference had almost ended.

Some public employees, including teachers, are required by law to obtain government approval before departing the country; however, human rights groups noted that this law was only enforced against teachers and not other public servants.

The law prohibits forced exile, and the government did not employ it.

Internally Displaced Persons (IDPs).—During the more than two-decade-old Casamance conflict, tens of thousands of Casamançais fled villages due to fighting, forced removal, and landmines. Because of improved security conditions after the December 2004 ceasefire, IDPs and refugees continued to return during the year. The number of IDPs during the year was estimated to be 20 thousand. The government continued to provide returning IDPs and refugees with roofing materials for home construction and sacks of rice.

Protection of Refugees.—The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum.

Since 1989 the country has offered temporary protection for Mauritanian refugees, who generally lived in dispersed locations in the river valley along the Mauritanian border and enjoyed free movement within the country. However, most refugees could not obtain current refugee documents from the authorities and sometimes encountered administrative difficulties when using their expired refugee application receipts. While no formal repatriation agreement existed, both governments continued to permit generally unsupervised and largely informal repatriation. Due to the

mobile nature of this population, the absence of identification documents, and cases of fraud, the exact number of remaining Mauritanian refugees was unknown. Anecdotal evidence from the UN High Commissioner for Refugees (UNHCR) and NGOs working with Mauritanian refugees estimated the number of refugees to be as much as 20 thousand.

In February several Mauritanian refugee groups staged a hunger strike during the visits of President Chirac from France and President Taya from Mauritania. First Lady Viviane Wade and High Commissioner for Human Rights Mame Bassine Niang intervened to stop the strike. Subsequently, Niang met with leaders in the Mauritanian refugee community and requested a memorandum detailing their situation since deportation. No further progress was reported at year's end. Mauritanian refugees seek an UNHCR-organized return to Mauritania, receipt of UNHCR-provided refugee identification documents, or, what one leader called, a durable solution. Representatives of the UNHCR office in Dakar claimed to be searching for a solution agreeable to all parties, and some exiles and refugees have reportedly returned to Mauritania since the August coup.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. The National Eligibility Commission at the interior ministry is responsible for hearing requests to grant refugee status. If the commission issues a documented approval, the case is referred to the presidency for a presidential decree. Once an individual receives a printed approval from the commission, this document can be used to look for employment in the formal sector. Lengthy delays of one to two years before the granting of refugee status was still a concern.

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.

Elections and Political Participation.—Citizens exercised their right to vote during the 2000 presidential election in which Abdoulaye Wade, backed by a coalition of opposition parties, defeated the incumbent president in what was considered to be a generally free and fair election. There were reports of several incidents of pre-election violence and minor procedural irregularities; however, the majority of political parties and civil society accepted the result. In the 2001 legislative elections, characterized as generally free and transparent by international and national observers, President Wade's coalition won 49.6 percent of the vote and 89 of 120 seats in the National Assembly.

In previous years, the interior ministry was responsible for the organization and implementation of elections, an arrangement that opposition political parties criticized because of the interior minister's partisan affiliation with the president and the PDS. During 2004 the National Electoral Observatory (ONEL) oversaw and supervised elections and had the power to order bureaucrats to obey electoral laws as well as initiate legal action against individuals and parties who violated these laws. Under pressure from opposition political parties, the government created a committee tasked with establishing an autonomous electoral committee to replace ONEL.

Since August 2004, the government has adopted three electoral reform measures: creation of a new voter list, a new national identity card for registration, and a new Autonomous National Electoral Committee (CENA). In August 2004 the National Assembly adopted a proposal to redo the national voter rolls, requiring all eligible voters for upcoming national elections to re-register, or register for the first time. Under the same law, in an attempt to reduce the potential for voter fraud, a new national identity card was made the sole form of identification accepted for voter registration. Voters will also receive new voter registration cards to present at the polls.

As part of the national voter registration campaign, the government is expected to set up 500 fixed and 200 mobile voter registration offices throughout the country and provide electrical generators in areas with power-supply problems. In August the interior ministry conducted a successful test of the new registration system. The government had set a deadline of early 2006 to finish voter registration, but, in late August, Wade announced his intent to change the election calendar and hold joint legislative and presidential elections, which could affect the timetable for implementing electoral reforms. In May the National Assembly unanimously adopted the bill creating the CENA, which is tasked with monitoring all aspects of election management, is financially autonomous, and has independent authority to sanction electoral law violations. In August the CENA's 12 members were sworn in and began

training courses despite opposition criticism that the government did not follow proper consultation procedures before naming the 12 members.

In addition President Wade introduced and the National Assembly passed a law temporarily amending the constitution in order to “couple” the legislative and presidential elections. This effectively set the stage for both elections in 2007. The law was hotly debated, and a broad set of opposition groups held a rally to protest it, claiming this single act had broken whatever political consensus was in place. The opposition asked the constitutional council to rule on the constitutionality of the amendment.

There are 91 registered political parties according to official government sources.

There were 25 women in the 120-seat National Assembly and 7 women in the 40-member cabinet. A study conducted by the Union of Locally Elected Representatives Associations indicated that only 11 percent of locally elected leaders were women. Even in areas where women won local leadership positions, they often remained a minority in the local bureaucracy. For example, Rufisque-East has a female mayor, but only 8 of 58 municipal counselors were women.

There were approximately 39 members of minorities in the 120-seat National Assembly and approximately 15 members of minorities in the 40-member cabinet.

Government Corruption and Transparency.—Government corruption was a problem, and there was a widespread public perception of government corruption.

In 2003 the government created a 10-member national anticorruption commission. On November 29, the National Commission to Fight Non-Transparency, Corruption, and Government Fraud officially began its activities with an initial operating budget of approximately \$28 thousand (15 million CFA francs).

During the year several corruption cases gained media attention, including widespread corruption in the health sector, as reported by Transparency International’s local branch; the Seck case; and cases brought against Socialist-era director generals of parastatals.

At an April press conference, the prosecutor general at the Dakar appeals court claimed that since 2000, when President Wade took office, government authorities have initiated investigations into 24 cases of possible government corruption; some of the cases have been resolved but most were still under investigation at year’s end. For example, in May authorities reopened the investigation into possible corrupt practices committed by Pathe Ndiaye, director general at the Port of Dakar from 1995 to 2000, and former Socialist leader in Rufisque. The criminal investigation department questioned Ndiaye several times between 2000 and 2002 for misuse of public funds; however, the investigation was not officially opened until May and was ongoing at year’s end.

In December three Treasury inspectors at the Ministry of Economy and Finance were prosecuted for embezzlement and sentenced to six years’ imprisonment and to pay to the government \$3.6 million (2 billion CFA francs).

Salary increases over the last two years for deputies at the National Assembly and civil servants at all levels, which also included all-terrain vehicles and land provided to deputies, only fostered the public belief that government officials were corrupt and only interested in self-enrichment.

The law provides citizens the right to access government information freely; however, the government rarely provided access in practice.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

The government’s National Committee on Human Rights had a broad membership, including government representatives, civil society groups, and independent human rights organizations. The committee, which received its budget from the government, had the authority to investigate abuses on its own initiative. The committee was poorly funded and was not effective in promoting human rights. It has not released an annual report during the past two years.

National assembly deputies participated in a Parliamentary Network on Human Rights and the Rule of Law. Members visited prisons, hospitals, and courts to observe conditions and report back to the National Assembly. The network made reports to the Minister of Justice and the president of the National Assembly, with recommendations to improve prison conditions for inmates and career prospects for prison guards.

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

The law provides that men and women are equal under the law and prohibits discrimination based on gender, race, class, or language; however, gender discrimination was widespread in practice, and antidiscrimination laws often were not enforced. Domestic violence, rape, sexual harassment, discrimination against women, female genital mutilation (FGM), abuse of children, child marriage, and trafficking in persons were problems.

Women.—Domestic violence, including spousal abuse, was a widespread problem. Violence against women is against the law, although, the government did not enforce the law in practice. The law criminalizes assaults and provides for a punishment of one to five years in prison and a fine. If the victim is a woman, the prison term and fine are both increased. Domestic violence that causes lasting injuries is punishable with a prison sentence of 10 to 20 years, and if an act of domestic violence causes death, the law prescribes life imprisonment. Several women's groups asserted that during the year there was a worsening trend in domestic violence. During the year there were growing reports of violence between co-wives in polygynous marriages.

Police usually did not intervene in domestic disputes, and most persons were reluctant to go outside the family for redress. Some groups felt that the harsh sentences under the law caused judges to require higher burdens of proof before finding potential offenders guilty, resulting in fewer total convictions for domestic violence. The Committee to Combat Violence Against Women (CLVF), a local NGO, criticized the failure of some judges to apply the law. There are no statistics available on the number of abusers prosecuted under the law during the year.

While local NGOs that assisted domestic violence victims and other women's rights groups viewed the antiviolence laws as important, they criticized the government's failure to permit associations to bring suit on behalf of victims.

Rape, including spousal rape, was a problem. The law prohibited rape, but not spousal rape. However, the government rarely enforced the law prohibiting rape. The law provides for 5 to 10 years' imprisonment for rape, and rapes resulting in death qualify for life imprisonment. One young man was arrested in October for attempted rape of a married woman. His case is ongoing at year's end. It was nearly impossible for victims to provide judges with sufficient proof to merit convictions. There was no government system to collect statistics on the extent of rape or convictions. A women's rights NGO criticized the country's lack of rape shield laws and the common practice of using a woman's sexual history to defend men accused of rape.

The NGO Tostan estimated FGM was practiced in thousands of villages throughout the country, particularly in the north, northeast, and southeast. In June 2004 the minister of family claimed that almost 100 percent of the women in the country's northern Fouta region were FGM victims, as were 60 to 70 percent of women in the south and southeast. Sealing, one of the most extreme and dangerous forms of FGM, was sometimes practiced by the Toucouleur, Mandinka, Soninke, and Bambara ethnicities, particularly in rural areas. Some girls were as young as one-year-old when FGM was performed on them.

FGM is a criminal offense under the law, carrying a sentence of six months' to five years' imprisonment for those directly practicing FGM or ordering it to be carried out on a third person. The government has prosecuted those caught engaging in the practice and fought to end it by collaborating with Tostan and other groups to educate people about the inherent dangers. During the year 140 villages renounced the use of FGM. Nevertheless, many people still practice FGM openly and with impunity.

Prostitution is legal if individuals meet certain criteria: they must be at least 21 years of age, register with the police, carry a valid sanitary card, and test negative for sexually transmitted infections (STIs). Pimping and soliciting customers are illegal. There were arrests of foreign illegal prostitutes, underage prostitutes, and pimps during the year. NGOs working with prostitutes claimed the problem was worse than official statistics on prostitution suggested, and that police targeted prostitutes for abuse and extortion.

Trafficking of adult women for sexual exploitation was a problem (see section 5, Trafficking).

Sexual harassment was common, but there have been only two sexual harassment cases since the law was passed in 1995. The law prohibits sexual harassment, which is punishable by a prison term of five months' to three years' imprisonment and a fine of \$100 to \$1 thousand (50 thousand to 500 thousand CFA francs); however, the government did not effectively enforce the law. Women's rights groups claimed

sexual harassment victims found it difficult, if not impossible, to present sufficient proof to justify prosecutions.

Women faced pervasive discrimination, especially in rural areas where traditional customs—including polygyny—and rules of inheritance were strongest. Under national law, women have the right to choose when and whom they marry, but traditional practices restricted a woman's choice. The Family Code prohibits marriage for girls younger than 17 years and men younger than 21 years. Under certain conditions, a judge may grant a special dispensation for marriage to a person below the age requirement. This law was not enforced in some communities where marriages were arranged. Women typically married young, usually by the age of 16 in rural areas (see section 5, Children).

According to the law, a woman's consent is required for a polygynous union, but once in a polygynous union, a woman need not be notified or given prior approval to the man's subsequent marriage. A 2004 study of marriage practices indicated that slightly less than 50 percent of the country's marriages were polygynous. Although protected under the law, marriage rights were not enforced because of socio-cultural pressures, judicial reluctance to enforce the law, and a lack of information on marriage laws.

Traditional practices made it difficult for women to purchase property. Due to the fact that men are legally considered the head of household, until the end of the year women paid higher taxes than men for the same salary (they were taxed as single individuals without children), and employers paid child allowances to men but not to women.

Only an estimated 20 percent of women have paid employment. In March at the fifth conference of African Women's Jurists, women criticized weak participation in productive and industrial activities, including modern economic sectors such as information technologies, energy, and natural resource management. Low education levels, lack of information, domestic responsibilities, lack of access to factors and means of production, and multiple pregnancies were cited as barriers to economic advancement for women. According to statistics from the National Center to Assist and Train Women, women represented 52 percent of the population but were held liable for 90 percent of domestic responsibilities and 85 percent of agricultural work. Approximately 22 percent of teachers and 14 percent of lawyers are women.

Women's groups criticized discriminatory provisions in the law, a problem the government has admitted. However, in September the president appointed the first woman to be police chief for the police department of Dakar.

Children.—The government was committed to children's rights and welfare. The Ministry of Women's Affairs, Family and Social Development was responsible for promoting children's welfare and is was assisted by the health, education, and labor ministries

The law provides for free education, and education policy declares education to be compulsory for children ages 6 to 16; however, many children did not attend school for lack of resources or available facilities. Students must pay for their own books, uniforms, and other school supplies. Due to government, NGO and international donor efforts, school enrollment reached 82.5 percent during the year. In fact, President Wade established "Places for the Little Ones" throughout the country to serve as pre-kindergartens for children. He also encouraged increased school enrollment. However, the highest level of education attained by most children is elementary school. In the 2005–2006 academic year, more girls than boys were enrolled in elementary school for the first time ever.

Although girls' attendance rates continued to climb, young girls still encountered greater difficulties in receiving an education. For example, when families could not afford for all of their children to attend school, parents tended to remove their daughters from school, rather than their sons. Only 23 percent of women over 15 years of age were literate, compared with 43 percent of men.

Boys and girls generally have equal access to medical care. Medical care is more readily available to children in urban areas than to those in rural parts of the country. Many villages completely lacked health care facilities.

Child abuse was common. Easily observable are the many poorly dressed, barefoot young boys (known as "talibés") begging on street corners for food or money for their Koranic teachers ("marabouts"). In the past year, two marabouts were arrested for chaining up and beating their talibés. There were periodic reports of child rape (in one case, three minor sisters were raped by a man), children exploited for sexual tourism, infanticide, and children physically abused by their parents.

Cases of pedophilia were often reported in the press. For example, in September a man was discovered by police to be in the act of molesting a 13-year-old girl. He was being prosecuted for the crime at year's end. One foreign national was arrested March 23 after being caught in the act of molesting a 15-year-old boy he had picked

up from a school for children in difficult living situations. At his initial trial, he was convicted of a “flagrant delit” (as he was apprehended in the act) and sentenced to five years in prison. He was also ordered to pay approximately \$1,900 (1 million CFA) to the victim. Upon appeal, his conviction was upheld, but his sentence was reduced to three months in prison. At that point, he was released with time served. One of the country’s leading prosecutors indicated that his sentence was reduced for “insufficient evidence.”

The law punishes sexual abuse of children with 5 to 10 years’ imprisonment. If the offender is a family member, the punishment is 10 years’ imprisonment. Any offense against the decency of a child is punishable by imprisonment for 2 to 5 years’ and in some aggravated cases up to 10 years’ imprisonment. Procuring a minor for prostitution is punishable by imprisonment for two to five years’ imprisonment and a fine between \$575 (300 thousand CFA francs) and \$7,600 (4 million CFA francs).

Because of social pressures and fear of embarrassment, incest remained taboo and often went unreported and unpunished. A women’s rights NGO said that of all cases of violence committed against girls, paternal incest cases were the fastest growing type of violence.

FGM was performed primarily on girls (see section 5, Women).

The law prohibits marriage for girls younger than 17 years and men younger than 21 years; however, family ministry officials and women’s rights groups considered child marriage a significant problem in parts of the country, particularly in rural areas. Girls, sometimes as young as nine-years-old, were married to older men because of religious, economic, and cultural reasons.

Trafficking and commercial exploitation of children were problems (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

Many children have been displaced due to the Casamance conflict and often lived with extended family members, neighbors, or in children’s homes. The government lacked adequate resources to effectively support these children. According to NGOs in Casamance, displaced children suffered from psychological effects of conflict, malnutrition, and poor health.

Infanticide is a problem. It is usually due to poverty or embarrassment. Many domestic workers or women from villages who go to cities for work and find themselves pregnant but without family ties and kill their babies because they cannot care for them. Others who may be married to men working outside the country that give birth to an illegitimate child will often dispose of their infants out of shame or to hide the truth. In some cases, the families of the women shame them into killing their own babies. Methods range from burying them alive, putting them in septic tanks, or, in the “best case” scenario, simply abandoning them along the road. The press has reported a rise in infanticide in the holy city of Touba. When the identity of the mother is discovered, the police arrest and prosecute her. For example, in December Dieynaba Laye was convicted and sentenced to 5 years’ forced labor for strangling her newborn with its own umbilical cord.

Trafficking in Persons.—The law prohibited trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country. In April the National Assembly unanimously adopted a law prohibiting human trafficking. Older laws prohibit pimping and kidnapping, which could be used in some trafficking cases. Under the new law, those who recruit, transport, transfer, or harbor persons, whether by means of violence, fraud, abuse of authority, or otherwise for the purposes of sexual exploitation, labor, forced servitude, or slavery are subject to punishment of 5 to 10 years’ imprisonment and a fine of between \$10 thousand and \$40 thousand (5 to 20 million CFA francs). When the infraction involves torture, barbarism, the removal of human organs, or exposing the victim to a risk of death or injury, jail time could range from 10 to 30 years’ imprisonment.

During the year the government arrested, prosecuted, and convicted traffickers. During the year there were prosecutions for rape, pedophilia, prostitution, and abuse of talibé children; however, there was no system to regularly collect statistics on cases. The human rights commissioner and the family ministry were the government’s coordinators on human trafficking issues.

Reliable statistics on the extent of the trafficking problem were unavailable. However, studies have shown the extent of trafficking in and through the country to be significant, particularly with regards to child begging. Talibés were trafficked from surrounding nations, such as The Gambia, Mali, Guinea, and Guinea-Bissau, and internally to participate in exploitive begging by some Koranic schools. According to the UN International Children’s Emergency Fund (UNICEF), the country had 100 thousand talibé boys and 10 thousand street children. “Marabouts,” the Koranic teachers who take charge of these boys, were the principal traffickers in the coun-

try. Young girls were trafficked from villages in the Diourbel, Fatick, Kaolack, Thies, and Ziguinchor regions to urban centers for work as underage domestics. Young girls from both urban and rural areas were involved in prostitution, which NGOs claimed involved an adult pimp to facilitate commercial sex transactions or provide shelter. In one case, a Guinean citizen was arrested by gendarmes for allegedly recruiting women in Dakar to produce pornography and for engaging in cyber-crime.

The country is believed to be a transit point for women en route to Europe for sexual purposes. ENDA Sante, a local NGO, treated illegal prostitutes for STIs through a mobile clinic program. According to ENDA Sante's staff, they saw many women from surrounding African countries—Nigeria, Ghana, Sierra Leone, Liberia, Guinea-Bissau, and Guinea—practicing prostitution. Evidence suggested foreign prostitutes' entry to the country was organized: groups of women often crossed the border together; foreign prostitutes usually lived together in identifiable dwellings; foreign prostitutes were never found sleeping on the street but had a predetermined destination upon arrival; women from Anglophone countries knew the French and Wolof phrases to solicit sex, making it appear as if they were trained; despite the fact many come from conflict zones, foreign prostitutes were well-dressed upon arrival; and many foreign women came to the country but did not stay indefinitely, suggesting their departures were better organized and professional. Nevertheless, there was no definitive proof these women were trafficking victims.

The government prosecuted victims for violating prostitution laws, such as not having the proper documentation (registration/medical information), or what is referred to as "escroqueries" (swindling), when people lure others into immigration scams. Authorities have not discouraged victims from filing complaints against traffickers. However, to date, trafficking victims have filed few complaints.

Most government efforts to combat trafficking, particularly trafficking in persons, are centered in the Ministry of Women, Family and Social Development, which operated the Ginddi Center, a children's center where over 4 thousand child trafficking victims received nutritional, medical, and other assistance over a two and one-half-year period. The center accommodated children from The Gambia, Mali, Guinea-Bissau, and Guinea. The center was also home to a toll-free child protection hot line that has fielded over 150 thousand calls since May 2003. The ministry also worked with other ministries to combat the worst forms of child labor. With assistance from a foreign government, the police have established a trafficking in persons database. There were no government programs to protect or assist trafficked women.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services, and the government effectively enforced it. No laws mandate accessibility for persons with disabilities, and there was a lack of infrastructure to assist them.

During the year, President Wade passed a decree requiring that 15 percent of new civil service positions would be reserved for persons with disabilities. The government operated schools for children with disabilities, provided grants for persons with disabilities to receive vocational training, and managed regional centers for persons with disabilities where they could receive training and funding for establishing businesses.

Despite these efforts, the leader of a women's handicapped association criticized the government's failure to designate a ministry responsible for persons with disabilities. She also questioned the lack of attention paid to persons with disabilities in national poverty reduction strategies. Several programs, which appeared to be earmarked for the persons with disabilities, offered services to other vulnerable populations and subsequently persons with disabilities received fewer resources. Lack of special education training for teachers and facilities accessible to children with disabilities meant that only 30 percent of them were enrolled in school.

National/Racial/Ethnic Minorities.—While the country's many ethnic groups have coexisted relatively peacefully, some observers have cited inter-ethnic tensions between Wolofs and southern ethnic groups as playing a significant role in the long-running Casamance rebellion that was characterized by grievous human rights abuses.

Other Societal Abuses and Discrimination.—Homosexuals face widespread discrimination and social intolerance, but they are not targeted for violence and harassment. Because homosexuality is not tolerated by society, homosexuals make no attempt to assert their individual rights.

As a result of awareness campaigns to combat this disease, persons with HIV or AIDS were not discriminated against. In fact, the government has implemented a free anti-retroviral program to treat HIV/AIDS patients. However, they often feel

stigmatized. One local doctor estimated that approximately four thousand people with HIV or AIDS have refused to identify themselves and benefit from the government program for fear of being rejected by others.

Section 6. Worker Rights

a. The Right of Association.—By law, all workers, except security forces, such as the police and gendarmes, customs officers and judges, are free to form and join unions, and workers exercised this right in practice. The Labor Code requires the interior minister to give prior authorization before a trade union can exist legally. The government can also dissolve trade unions by administrative order but has not done so. The labor code does not apply to the majority of the workforce because most persons worked in agriculture or the informal sector. Approximately 4 percent of the total workforce was employed in the private industrial sector, of which 40 to 50 percent belong to unions

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for the right to collective bargaining, and it was freely practiced everywhere but in private security companies. Collective bargaining agreements applied to approximately 44 percent of workers. The law provides for the right to strike but with significant restrictions; however, workers exercised this right by conducting legal strikes. Health, transportation, manufacturing, education, justice, and oil workers held strikes during the year. Unions representing members of the civil service must notify the government of their intent to strike at least one month in advance; private sector unions must notify the government three days in advance. There are no special laws or exemptions from regular labor laws in the one export processing zone.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports such practices occurred (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law bans the exploitation of child labor, and there are regulations on child labor that set the minimum working age, working hours, working conditions, and barred children from performing particularly dangerous jobs; however, child labor was a problem. Most child labor occurred in the country's informal economic sector where labor regulations were not enforced. Economic pressures and inadequate educational opportunities often pushed rural families to emphasize labor over education with their children.

The minimum age for employment was 15; however, children under the age of 15 continued to work in traditional labor sectors, particularly in rural areas where there was no enforcement of child labor laws. According to the International Labor Organization (ILO), 50 percent of the population was under 16 years of age, and over 35 percent of these children were engaged in child labor in several different sectors: mining, construction, transportation, domestic work, commerce, restaurant and hotel work, manufacturing, and—making up the largest percentage of child laborers—agriculture, fishing, and hunting.

Some religious instructors in Koranic schools brought young boys from rural villages to urban areas and held them under conditions of servitude, forcing them to beg on a daily basis in unsanitary and dangerous conditions under the threat of physical punishment.

One particularly egregious area of child labor is in the mining and rock quarry sector. Child gold washers, mostly between the ages of 10 and 14, work around 8 hours per day without training or protective equipment. Children worked long hours in rock quarries, crushing rock, and carrying heavy loads—also without protection. Both types of work can lead to serious accidents and long-term illness.

The labor ministry and social security inspectors were in charge of investigating and initiating lawsuits in child labor cases. Inspectors can visit any institution during work hours to verify and investigate compliance with labor laws and can act on tips from trade unions or ordinary citizens. In practice inspectors did not initiate visits because of a lack of resources and relied on unions to report violators. Labor inspectors closely monitored and enforced minimum age rules within the small formal-wage sector, which included state-owned corporations, large private enterprises, and cooperatives. However, there are no available statistics on the number of violations found.

In addition to efforts to fight human trafficking for exploitive labor purposes, the government attempted to raise awareness about the dangers of child labor through seminars with local government officials, NGOs, and elements of civil society. For example, during an Independence Day speech, President Wade highlighted the need

for child protection and efforts to combat exploitive child begging. In 2004 the family ministry organized seminars with assistance from UN International Children's Emergency Fund and the Italian government to sensitize over five thousand youth to the dangers of underage prostitution. The government has taken steps to provide classes in religious education via the formal school system, to provide an alternative to parents sending their children to Koranic schools, where they may be abused.

In August the ILO initiated a project in Fatick to remove children under age 15 from working in domestic labor. The project is expected to encompass 10 villages, continue for a year, and provide training to children in cloth dying, sewing, and food-processing.

e. Acceptable Conditions of Work.—The national minimum wage was \$0.42 (209.10 CFA francs) per hour, which did not provide a decent standard of living for a worker and family.

Within the formal sector, the law mandates for most occupations a standard work-week of 40 to 48 hours with at least one 24-hour rest period, one month per year of annual leave, enrollment in government social security and retirement plans, safety standards, and other measures, but enforcement was irregular. The law does not cover the informal sector. Premium pay for overtime was required in the formal sector.

While there are legal regulations on workplace safety, they often were not enforced. There is no explicit legal protection for workers who file complaints about unsafe working conditions. Workers had the right to remove themselves from situations that endangered health or safety without jeopardy to their employment; however, it was seldom exercised due to high unemployment and a slow legal system.

SEYCHELLES

Seychelles is a multiparty republic of approximately 81 thousand citizens. President James Michel, formerly vice president, assumed power in April 2004 when President France Albert Rene resigned. In the 2001 elections, Rene and the Seychelles People's Progressive Front (SPPF) won reelection with 54 percent of the vote. Some international observers concluded that the overall result was decided fairly; however, other observers reported that the election was not entirely free and fair and alleged that the SPPF gave cash donations to supporters. The president and the SPPF dominated the country through a pervasive system of political patronage, control over government jobs, contracts, and resources. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. The following human rights problems were reported:

- prolonged pretrial detention
- inefficient and politically influenced court system
- control of the press
- political corruption
- violence against women
- child abuse
- restrictions on labor rights
- discrimination against foreign workers

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Unlike in the previous year, there were no reports that the government or its agents committed arbitrary or unlawful killings. There were no developments in the July 2004 killing of Claude Monnaie by government agents who accidentally confused Monnaie for an opposition party activist.

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 unlike in the previous year, there were no reports that government officials employed them. Of the eight cases of police brutality before the Supreme Court in 2004, one case was dismissed, and the rest were either settled out of court or resulted in a court judgment favorable to the plaintiff.

Prison and Detention Center Conditions.—Detention centers included the Grand Police High Security Prison for violent inmates and the Long Island prison for all other prisoners and those awaiting trial or sentencing. Long Island prison conditions remained spartan, particularly for those on remand. Prison officials stated that staff shortages forced guards to limit prisoner time outside of their cells.

During the year, local and international nongovernmental organizations (NGOs) and diplomats visited the Long Island Prison facility. A local NGO, the Center for Rights and Development, held a public meeting to discuss suggestions for improving conditions at the prison.

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

Role of the Police and Security Apparatus.—The president had complete control over the security apparatus, which included a national guard, the army, the presidential protection unit, the coast guard, and police. The police commissioner, who reported to the defense forces chief of staff, commanded the unarmed police and the armed paramilitary Police Mobile Unit, which together had primary responsibility for internal security. When necessary, police worked with the army on issues of internal security, as police resources were limited. Corruption was a problem. Officially, there is a “complaints against police” unit with the police department, but it was rarely if ever used. In practice, private attorneys filed complaints or published them in *Regar*, the independent newspaper.

Arrest and Detention.—The law provides that persons arrested must be brought before a magistrate within 24 hours, with allowances made for boat travel from distant islands, although police did not always uphold this requirement. The law also provides for detention without charge for up to seven days if authorized by court order, and, in practice, police generally respected this provision. Detainees have the right to legal counsel. Free counsel is not a legal right, but courts usually provided it to the indigent. Courts provided bail for most offenses. Although warrants are required by law, in practice, the police made some arrests and detentions without a warrant.

There were no reports of political detainees.

Prolonged pretrial detention was a problem. The time that prisoners awaited trial or sentencing often extended beyond two years due to the inefficiency of the judicial system.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the judiciary was inefficient and subject to executive influence. Both civil and criminal court cases regularly lasted years.

The judicial system includes magistrates’ courts (or small-claims court), the Supreme (or trial) Court, the constitutional court, and the court of appeal. The constitutional court convenes weekly or as necessary to consider constitutional issues. The court of appeal convenes three times per year for two weeks in April, August, and October to consider appeals from the Supreme Court and constitutional court.

The chief justice of the Supreme Court was a naturalized citizen, and one other judge was a native of the country. The remaining judges were either naturalized citizens or hired from other Commonwealth countries. The bar association criticized the government for not advertising domestically that judicial positions were available. Critics widely believed that some foreign justices bent to the will of the executive branch for fear of deportation.

Several justices of the peace were responsible for small-claims cases, and there were allegations that many of the justices were appointed because of their affiliation with the SPPF.

Trial Procedures.—Defendants have the right to a fair public trial, and trials were public in practice. Magistrates’ court or the Supreme Court heard criminal cases, depending on the gravity of the offense. A jury heard cases involving murder or treason. The accused was considered innocent until proven guilty. Defendants have the right to be present at their trial, to confront witnesses, and to appeal.

An 18-member, part-time family tribunal heard and decided all matters relating to the care, custody, access, and maintenance of children, except paternity cases, which remained under the courts. The government empowered the family tribunal to offer protection orders to victims of family violence. Most members of the tribunal were not legally trained and were affiliated with the SPPF.

Political Prisoners.—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. The law requires that all electronic surveillance be approved by a judge and justified on the grounds of preventing a serious crime; however, it was widely

believed that the government maintained telephone surveillance of some political figures and private citizens.

Reports continued that the government barred members of the opposition from receiving postings in administrative positions in the education sector.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government did not respect these rights in practice. The law provides restrictions “for protecting the reputation, rights, and freedoms of private lives of persons” and “in the interest of defense, public safety, public order, public morality, or public health.” As a result, the government limited freedom of speech and press because civil lawsuits could easily be filed to penalize journalists for alleged libel.

The government-controlled Seychelles Broadcasting Corporation (SBC) continued its ban on the broadcast of a local singer’s music on the grounds that the songs were seditious.

There were two independent newspapers, the weeklies *Regar* and *le Nouveau Seychelles Weekly*. The only daily newspaper was the government-owned *Nation*, which adhered closely to the government’s position on policy issues and gave only limited attention to the opposition and news adverse to the government.

The law allows for independent radio and television, but in practice the exorbitant licensing fee of approximately \$185 thousand (SR one million) per year discouraged the opening of any independent outlets. The government continued to own the only television station and all radio stations.

The law allows the Minister of Information Technology to prohibit the broadcast of any material believed to be against the “national interest” or “objectionable.” The legislation also requires telecommunications companies to submit subscriber information to the government.

In the past, government officials sued *Regar* for libel numerous times, threatening its financial viability due to legal fees. However, during the year no suits were filed, and the government did not pursue previous outstanding cases. Journalists told of pressure to report news favorable to the government. In December arson at the *Regar* office damaged one of the two printing presses. Nobody was charged in the attack. Reporters Without Borders condemned this attack and stated that the arson “seems to have been politically motivated.”

There were no government restrictions on the use of the Internet.

The government limited academic freedom in that persons could not reach senior positions in the academic bureaucracy without demonstrating at least nominal loyalty to the SPPF. There were no universities; secondary school teacher appointments were largely apolitical. The government controlled faculty appointments to the Polytechnic, the most advanced learning institution.

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.

Societal Abuses and Discrimination.—There were fewer than 10 individuals in the Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 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. Although it was not used during the year, the law allows the government to deny passports to any citizen if the minister of defense finds that such denial is “in the national interest.”

According to foreign exchange regulations, citizens could exchange only \$400 worth of foreign exchange, severely hindering their ability to pay for travel.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has not established a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution; however, the issue did not arise during the year.

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 in the 2001 presidential elections and in the 2002 national assembly elections.

Elections and Political Participation.—In the 2001 presidential election, approximately 90 percent of eligible voters participated. Citizens reelected President Rene with 54 percent of the vote; Seychelles National Party (SNP) candidate Wavel Ramkalawan received 45 percent, and independent candidate Dr. Philip Boule received 1 percent. Ramkalawan challenged the election results but withdrew his case in 2003. Observers from the Southern African Development Community stated their general satisfaction with the election. However, the Commonwealth Organization observers reported that, while the presidential elections were peaceful, they were not entirely free and fair, describing instances of intimidation during voting and the lack of open competition during the campaign. Rene resigned in April 2004 and nominated his vice president, James Michel, as his successor.

In the 2002 national assembly elections, judged by international observers to be free and fair, the opposition SNP party won 11 of the 34 seats.

Under President Michel, the SPPF party continued to use its political resources and those of the government to develop a nationwide organization that extended to the village level. The opposition parties have been unable to match the SPPF's organization and patronage, in part because of financial limitations. Former President Rene continued to head the SPPF. During the year, the government allocated the SPPF approximately \$50 thousand (SR 271,500), the SNP approximately \$39,500 (SR 213 thousand), and the Democratic Party approximately \$2,800 (SR 15,500). These amounts were based on percentages received by the political parties nationally in the 2002 legislative elections.

Some members of opposition parties claimed that they lost their government jobs because of their political beliefs and were at a disadvantage when applying for government licenses and loans.

There were 10 women in the 34-seat National Assembly, 7 by direct election and 3 by proportional representation, and there was 1 woman in the 12-minister cabinet. There were seven female principal secretaries in the government service.

Government Corruption and Transparency.—There was widespread public perception of political corruption. In particular, there were reports of rewards to SPPF supporters in the form of job assistance, land distribution, free building materials, and monetary payments. Legal entities of the government, such as the attorney general's office, were reluctant to pursue charges of wrongdoing or abuse of power against senior officials.

There are laws allowing public access to government information, although the government does not enforce them, and citizens routinely did not have access.

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

A number of domestic human rights groups, including churches, generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

A government-run National Humanitarian Affairs Committee (NHAC) operated with a range of members from both civil society and the government. The International Committee of the Red Cross acted as a technical adviser to the NHAC.

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

The law affirms the right to be free from all types of discrimination, but it does not prohibit discrimination based on specific factors. In practice, there was no overt discrimination in housing, employment, education, or other social services based on race, sex, ethnicity, nationality, or disabilities.

Women.—Domestic violence against women, particularly wife beating, was a continuing problem. Police rarely intervened in domestic disputes, unless the dispute involved a weapon or major assault. The authorities often dismissed the few cases that reached a prosecutor, or the court gave the perpetrator a light sentence. Rape, spousal rape, and domestic abuse are criminal offenses, all punishable for a maximum 20 years' imprisonment. In November the government amended the penal code to impose a seven year minimum penalty on the rape of minors under 15. There was growing societal concern about domestic violence and increased recognition of the need to address it.

Prostitution is illegal but remained prevalent. Police generally did not apprehend prostitutes unless their actions involved other crimes.

The law prohibits sexual harassment but was rarely enforced.

The society largely was matriarchal. Unwed mothers were the societal norm, and the law required fathers to support their children. There was no officially sanctioned discrimination in employment, and women were well represented in business. Inheritance laws did not discriminate against women.

Children.—The division of social affairs in the Ministry of Social Affairs and Manpower Development worked to protect children's rights, and in practice they were fairly effective.

The government required children to attend school through the 10th grade and made tuition-free public education available through the secondary level until age 18. Students had to buy school uniforms but did not have to pay for books. According to government figures, all children between the ages of 6 and 16 attended school, and the percentages of boys and girls enrolled was roughly equal. There was a noncompulsory fifth year of secondary school. After completing secondary school, students could go to the Polytechnic School for Vocational Training, go abroad for university studies, or go to apprenticeship or short term work programs. Children in the apprenticeship or short term work programs received a training stipend, which was less than the minimum wage.

The age of consent was 15 years. Girls were not allowed to attend school when they were pregnant, and many did not return to school after the birth of a child.

The law prohibits physical abuse of children. Sexual abuse of children, usually in low-income families and perpetrated by stepfathers and older brothers, was a problem. Rape of girls under the age of 15 continued to be a problem, according to the Ministry of Health. Authorities prosecuted very few child abuse cases in court. The strongest public advocate for young victims was a semiautonomous agency, the National Council for Children. There was criticism that police failed to investigate charges of child abuse.

Trafficking in Persons.—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—The law provides for the right of persons with disabilities to special protection, including reasonable provisions for improving the quality of life; however, there was no law providing for access to public buildings, transportation, or state services, and the government did not provide such access for persons with disabilities. There was no reported discrimination against persons with disabilities in housing, jobs, or education, or in the provision of other state services.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers with the right to form and join unions of their choosing; however, police, military, prison, and fire fighting personnel may not unionize. Some citizens were reluctant to join the nongovernment-sponsored labor union due to fear of government reprisal. Unions organized between 15 and 20 percent of the workforce, and the law prohibits antiunion discrimination.

b. The Right to Organize and Bargain Collectively.—The law allows for unions to organize and conduct their activities without interference. The law provides workers with the right to engage in collective bargaining, but free collective bargaining did not take place. The government has the right to review and approve all collective bargaining agreements in the public and private sectors. There was little flexibility in setting wages. In the public sector, which employed over 50 percent of the labor force, the government set mandatory wage scales for employees. The employer generally set wages in the private sector in individual agreements with the employee, but in the few larger businesses, the government set wage rates.

The law authorizes the Ministry of Employment and Social Affairs to establish and enforce employment terms, conditions, and benefits, and, in practice, workers frequently obtained recourse against their employers through the ministry.

Strikes are illegal without first exhausting arbitration procedures. However, in September workers at the Indian Ocean Tuna Factory went on strike without interference by security forces. The government intervened and promised generous compensation packages, ending the strike.

There is one export processing zone, the Seychelles International Trade Zone (SITZ), with 24 participating companies. Only the Seychelles Trade Zone Act applied in the SITZ, and the government did not require the SITZ to adhere to labor, property, tax, business, or immigration laws.

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

d. Prohibition of Child Labor and Minimum Age for Employment.—The law states that the minimum age for employment is 15, “subject to exceptions for children who are employed part time in light work prescribed by law without harm to their health, morals, or education,” and, in practice, the government followed these requirements. It is a criminal offense punishable by a fine of \$1,113 (SR 6 thousand) to employ a child under the age of 15. The Ministry of Employment and Social Services enforced child labor laws. The ministry handled such complaints within its general budget and staffing; the ministry did not report any cases requiring investigation.

e. Acceptable Conditions of Work.—There is no official private sector minimum wage. The government encouraged but did not require the private sector to grant the minimum public sector wage. In December legislation increased the minimum public sector wage from \$387 to \$445 (SR 2,025 to SR 2,325) per month effective January 2006. Even with free public services, primarily health care and education, a single salary at the low end of the pay scale did not provide a decent standard of living for a worker and family. Private employers generally paid higher wages than the government to attract qualified workers.

The legal maximum workweek varied from 45 to 55 hours, depending on the economic sector; in practice, some workers worked up to 60 hours per week. Government employees worked fewer hours. Regulations entitled each full-time worker to a 30-minute break per day and a minimum of 21 days of paid annual leave. The government permitted workers to work overtime up to 60 additional hours per month. The government generally enforced these regulations.

Foreign workers did not enjoy the same legal protections as citizens and were employed in the construction and commercial fishing sectors. Companies sometimes paid foreign workers lower wages, forced them to work longer hours, and provided them with inadequate housing.

The Ministry of Employment and Social Affairs has formal responsibility for drafting the government’s comprehensive occupational health and safety regulations, and the Ministry of Health enforced such standards, although safety and health inspectors rarely visited job sites. Occupational injuries were most common in the construction, marine, and port industries. Workers do not have the right to remove themselves from dangerous or unhealthy work situations without risking their continued employment, and if they took such action, employers considered them to have resigned.

SIERRA LEONE

Sierra Leone is a constitutional republic with a directly elected president and a unicameral legislature. In 2002 the devastating 11-year civil conflict officially ended, and the government, backed by a large United Nations peacekeeping force, asserted control over the whole country. Ahmed Tejan Kabbah was reelected president in 2002, and his Sierra Leone People’s Party (SLPP) won a large majority in parliament. Many international monitors declared the elections free and fair; however, there were also numerous reports of election irregularities. In May 2004 the first local government elections in 32 years were held in 311 wards nationwide. National and international monitors declared the elections free and fair; however, evidence of substantial electoral irregularities later emerged. In 2004 the peacekeeping UN Mission in Sierra Leone (UNAMSIL) handed over responsibility for security countrywide to the Republic of Sierra Leone Armed Forces (RSLAF) and Sierra Leone Police (SLP). By year’s end UNAMSIL withdrew all remaining peacekeepers. UNAMSIL also handed over residual, non-peacekeeping responsibilities to a follow-on peacebuilding UN mission (UNIOSIL). Civilian authorities generally maintained effective control of security forces throughout the year.

On June 27, the government released a white paper in response to the recommendations contained in the Truth and Reconciliation Commission’s (TRC) final report. During the year the UN Special Court of Sierra Leone (SCSL) war crimes tribunal continued trials of three Civil Defense Force (CDF) indictees and three Revolutionary United Front (RUF) indictees, and it began trials of five former members of the Armed Forces Revolutionary Council. The government generally respected the human rights of its citizens; however, there were serious problems in a number of areas.

Widespread poverty, an infrastructure devastated by the civil war, and decades of bad governance influenced the human rights situation. The following human rights problems were reported:

- abuses by security forces, including rape, and use of excessive force with detainees, including juveniles
- police theft and extortion
- poor conditions in prisons and detention centers
- official impunity, including for alleged manslaughter
- arbitrary arrest and detention
- prolonged detention, excessive bail, and insufficient legal representation
- an inefficient and corrupt judiciary
- restrictions on freedom of speech and press
- widespread official corruption
- government and chiefdom arrest and abuse of journalists
- societal discrimination and violence against women
- female genital mutilation (FGM)
- child abuse
- trafficking in persons, including children
- forced labor, including by children
- child labor

The judicial branch took action to improve excessively long pretrial detentions by dismissing charges, releasing detainees on bail, and beginning delayed trials. In an attempt to reduce corruption in the judiciary, the chief justice introduced a code of conduct for judicial officers.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings during the year; however, a parliamentarian was briefly detained in connection with a beating that led to the death of a newspaper editor (see section 2.a.). In addition during a demonstration police allegedly shot a girl who later died from her injuries (see section 1.d.).

The detention center guard sought in connection with the 2003 beatings of three boys, one of whom was beaten to death, remained at large.

Preliminary investigation by the magistrate court revealed that one of the three RSLAF soldiers accused of beating a businessman to death in 2003 was actually a witness to the crime. The case against the remaining two soldiers was dismissed after no witnesses appeared in court to testify against them.

In April 2004 UNAMSIL soldiers were accused of murdering a prostitute, who was found dead after last being seen with the men. Although UNAMSIL concluded its mandate by year's end, UNIOSIL continued to investigate the case (see section 1.c.).

There were no further investigations into the possible existence of a mass grave in Kamakwie.

b. Disappearance.—There were no reports of politically motivated disappearances; however, the Poro Society, a secret male initiation society present throughout the country, reportedly abducted a local imam near Bo following a dispute over the forced ritual initiation, which normally includes circumcision, of a local Muslim man. When the imam did not reappear and others in the community appealed to the SLP to investigate, the SLP referred the case to chiefdom authorities. The imam reappeared after a number of weeks, during which time he had been forcefully initiated into the society. The Freetown-based Council of Imams registered a complaint with the chiefs; the latter apologized to the council for the incident and the matter was not referred to court.

Former RUF rebels continued to hold persons, including women and children, as forced or common law spouses or as laborers. Some women reportedly remained with their captors due to intimidation and a lack of viable options (see section 5). The Ministry of Social Welfare, Gender and Children's Affairs maintained a database, with the help of the UN Children's Fund (UNICEF), which attempted to track children separated from their families during the war. International nongovernmental organizations (NGOs) continued to work, often with government assistance, to secure the release of women and children from their captors.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were reports that security forces beat and raped persons, and that police stole, extorted, and accepted bribes.

The pre-independence Corporal Punishment Act of 1960 allows boys under age 17 to receive up to 12 lashes as punishment. In January a magistrate in Bo sentenced an 11-year-old boy to 6 lashes for stealing a cellular phone. The draft Child Protection Bill, currently being reviewed by the cabinet, contains a provision that would repeal the act.

On March 11, a police officer in Kenema allegedly beat a woman and stole \$3.50 (10 thousand leones) from her while she was in custody. The woman was subsequently released; however, police denied the allegations and took no action against the accused police officer.

Unlike in 2004, there were no reports that security forces beat journalists during the year, although a member of parliament allegedly ordered the beating of a journalist during the year (see section 2.a.). Intimidation and arrest of journalists occurred.

There were reports that security forces raped women and children during the year (see section 5). On April 10, a police officer in Port Loko raped an 11-year-old girl. The girl's father, also a police officer, settled the case out of court for approximately \$68 (200 thousand leones).

The Freetown police officer held in custody at the end of 2004 for raping a 12-year-old girl was released on bail, but the matter was later settled out of court.

In December 2004 the magistrate court in Kenema released and then ordered the re-arrest of a soldier who had been charged during the year with raping an 8-year-old girl in Kailahun. The soldier presented evidence that he was impotent; however, subsequent press reports indicated that he had a pregnant wife and two children, and the magistrate concluded that he had made his original decision based on false evidence. At year's end the SLP had still not executed the re-arrest order for the soldier.

There were no charges filed by year's end against a Kenema police officer accused of impregnating an 18-year-old prisoner in August 2004; however, the officer was assigned to a different location.

There were no reports of action taken in other 2004 and 2003 cases of rape committed by security forces.

There were no reports that UNAMSIL staff or soldiers raped persons during the year. Although UNAMSIL ceased operations by year's end, UNIOSIL retained a human rights mandate and continued to investigate the alleged 2003 rape by a UNAMSIL soldier of a girl in Makeni.

In February an SCSL staff member from another country was convicted of raping a young girl in August 2004 and sentenced to an 18-month prison term; however, on October 12, the court of appeal overturned the conviction.

On multiple occasions, police were not present when crowds beat alleged thieves.

During the year Guinean forces continued to occupy the Yenga area in the eastern part of the country, contravening an agreement between the presidents of Guinea and Sierra Leone acknowledging that the town of Yenga was part of Sierra Leone. The government and human rights groups accused the Guinean troops of harassing the local population. In October a joint meeting to officially delimit the boundary between the two countries ended without success, and the issue was unresolved at year's end.

Prison and Detention Center Conditions.—Prison conditions improved in some locations during the year, due in large part to a UN Development Program (UNDP)-funded prison reconstruction and rehabilitation program. However, conditions in most facilities, including the maximum security prison on Pademba Road in Freetown, remained poor. After visits to prisons in the Western (Freetown) Area, Kambia, Magburaka, Bo, Bonthe, Moyamba, and Kenema, human rights observers reported that conditions frequently fell below minimum international standards because of overcrowding, lack of access to food, unhygienic conditions, and insufficient medical attention. Unlike in the previous year, there were no reports that such conditions resulted in death during the year.

Many problems resulted from the lack of resources and inefficiency of the judiciary. For instance, case backlogs in the courts, which often led to long pretrial detention, caused severe overcrowding. Government records indicated that there were approximately 1,740 detainees in prisons nationwide, 696 of whom had not completed their trials. This figure did not include detainees in police jails and detention centers. Prison overcrowding was a severe problem at Freetown's maximum security Pademba Road prison, which was designed to house 325 prisoners but held an estimated 930. A Commonwealth judge who inspected Pademba Road Prison in 2004 described conditions as "deplorable." There were 13 district prisons. The UNDP completed the rehabilitation and reconstruction of eight prisons and a training center by year's end.

Conditions in holding cells in police stations were extremely poor, especially in small stations outside Freetown. During the year international monitors visited the SCSL detention facilities and reported that they met acceptable standards.

Unlike during the previous year, the government permitted family visits, but only for brief periods. The International Committee of the Red Cross (ICRC) provided a message delivery service that allowed prisoners housed in all district prisons to communicate with their families.

In April Liberian ex-combatants staying at the Mape and Mafanta internment camps began returning to Liberia with the assistance of the ICRC and the National Commission for Social Action (NaCSA). All internees had returned to Liberia by year's end. The United Nations High Commissioner for Refugees (UNHCR) facilitated the repatriation of the internees' families, many of whom had lived in refugee camps.

Except for pilot "work release" programs offering income (prison wardens collect tips from the community on behalf of detainees for work performed) in Kabala and Pujehun, detainees frequently worked outside of the prison without appropriate compensation.

According to a local NGO report, male and female prisoners shared cells in Bo, Kenema, Moyamba, Kono, and Pujehun prisons. Adults and juveniles were sometimes incarcerated together. Juvenile detainees did not have adequate access to food, education, or vocational training. Pretrial detainees were held with convicted prisoners.

International monitors, including UNAMSIL and the ICRC, had unrestricted access to Pademba Road prison and other detention facilities, including the SCSL detention facilities. Prison Watch, a local human rights group, reported on detention facilities throughout the country but stated that the government did not allow it access to Pademba Road prison.

On October 20, the minister of internal affairs publicly acknowledged the deficiencies in the prison system and encouraged civil society to report problems so that they could be addressed.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily.

Role of the Police and Security Apparatus.—The SLP, which has primary responsibility for maintaining internal order, received insufficient resources, lacked investigative and forensic capabilities, and was widely viewed as corrupt and incompetent. Impunity was a serious problem. During the year there were frequent reports that police officers took bribes at checkpoints, falsely charged motorists with violations, and impounded vehicles to extort money. The Driver's Union complained that police demanded bribes at illegal checkpoints during the year. Police also accepted bribes from criminal suspects in exchange for dropping charges.

The inspector general of police continued efforts to recruit and train police during the year and increased the number of officers from 7,900 in 2004 to 9,300 by year's end.

Police responded, overall professionally, to a number of public demonstrations since the drawdown of UNAMSIL peacekeeping forces; however, some reports indicated that police used live ammunition to quell demonstrators, and at least one of these incidents resulted in the death of a 16-year-old girl (see below).

During the year a formal police training program provided instruction to police in areas such as professional ethics and human rights. A total of 3,500 were trained—new recruits as well as other officers who received refresher training. In November senior police officers participated in a human rights workshop in Freetown.

There were several mechanisms available to investigate police abuses. The Police Complaints Commission and the Complaints, Discipline and Internal Investigations Department (CDIID) both heard complaints against police officers. The CDIID received over 400 complaints during the year and disciplined approximately 150 police officers. There was also a Police Council, composed of the vice president, minister of internal affairs, inspector general, and others who accepted written complaints against police.

On multiple occasions police were not present when crowds beat alleged thieves. Police also were not always able to control violence at public demonstrations (see section 2.b.). For example, during a February 28 to March 1 demonstration, protestors threw stones and bricks and threatened onlookers; a 16-year-old girl was shot in the mouth. There were reports that police brought the girl to a dental clinic for care and told medical personnel they would pay the bill. The girl died two

months later, and her father requested a police investigation into the shooting. By year's end, however, the girl's father claimed that no investigation had begun.

On November 7, police in Kenema fired live warning shots to quell a violent demonstration of the Kenema Bike Drivers' Association that began after two motorcyclists were found dead. The shots killed at least one bystander who was not participating in the demonstration.

Arrest and Detention.—The law in many cases requires warrants for searches and arrests; however, arrest without warrant was common. The law prohibits arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily. Once arrested a detainee must be told the reason for arrest within 24 hours, and a case must be charged to court within 72 hours or, in the case of serious crimes, within 10 days. However, detainees were often held without charge or trial for minor offenses for long periods. Detainees have the right of access to family and counsel; however, access to counsel was often delayed, and family visits to prisoners were restricted. Prison visits are allowed once every two weeks. Prison headquarters must approve all visits, however, so visits are further subject to restriction, and were reportedly very short at Pademba Road prison (see section 1.c.). Indigent detainees usually did not receive legal advice prior to trial.

There were provisions for bail, and there was a functioning bail system; however, the TRC recommended that the law concerning bail provisions be revised.

Incommunicado detention was generally not a problem; however, jailed *For di People* editor Paul Kamara was sent to solitary confinement and not allowed to communicate with his family for a brief period (see section 2.a.).

There were numerous instances of arrest without charge for strictly civil offenses; arrests for alleged breach of contract or failure to satisfy debt were the most common.

The SLP sometimes acted on individual informal complaints outside the established chain of command and scope of duty. In July an SLP officer in Freetown illegally forced a woman to pay a "summons fee" to a chief who had asked him for assistance. The officer would not allow the woman to sell food from her street stall until she went to see the chief and paid the fee.

During the year police arrested demonstrators (see section 2.b.).

Trials were in progress at year's end for approximately one hundred ex-combatants who fought for the RUF, the rebel group which started the country's 11-year civil war; the Armed Forces Revolutionary Council (AFRC) junta; and the West Side Boys, a splinter group of the AFRC. All combatants were represented by a legal assistance NGO.

In October 2004 the final report of the TRC noted that the government still illegally held at least 16 detainees in "safe custody" without charge, several of them since 2000. The government released all known prisoners remaining in safe custody during the year; however, the procedures remained flawed and the process was not transparent. In September a woman from Rokupr claimed that her husband remained in safe custody detention, where he had been for several years.

Lengthy pretrial detention was a problem. Authorities held many criminal suspects for months and some for years before courts examined their cases or filed formal charges. According to government records, approximately 40 percent of the country's 1,740 detainees in prison were in pretrial detention. There were reports that the percentage of pretrial detainees at Pademba Road prison exceeded 70 percent.

Amnesty.—The law provides the president with the power to grant amnesty by the "prerogative of mercy," which the president traditionally exercises on Christmas Day (December 25) and Independence Day (April 27). During the year President Kabbah did not grant any releases using this power.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice; however, the judiciary at times was subject to government influence and corruption.

The judicial system consists of the Supreme Court, court of appeal, high court of justice, and magistrate courts. The president appoints and parliament approves justices for the three courts. Local chieftaincy courts administer customary law with lay judges; appeals from these lower courts are heard by the superior courts.

Judicial presence outside the capital district remained limited, which contributed to excessive delays in the justice system. Although magistrate courts functioned in all 12 judicial districts, an insufficient number of magistrates resided permanently outside the capital. Justices of the peace or customary law partially filled the gap, and magistrates periodically visited districts with judicial vacancies.

Trial Procedures.—The law provides for a fair trial; however, in practice the lack of judicial officers and facilities often produced long delays in the judicial process.

Persons accused of crimes have a limited right to a trial by jury in the magistrate courts. Juries were drawn from a list maintained by the master and registrar of active and retired civil servants and youth groups; however, the attorney general frequently exercised his power to determine that cases be heard by a judge only. Defendants have the right to be present and to consult with an attorney in a timely manner; however, access to counsel was often delayed. The law directs that attorneys be provided at public expense if defendants could not afford their own; however, state-appointed attorneys were often overburdened and poorly paid, and indigent detainees usually did not receive legal advice prior to trial. Defendants can confront or question witnesses against them, present witnesses on their own behalf, and access government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence as well as a right to appeal. Trials were usually fair; however, there was evidence that corruption influenced some cases. A majority of cases on the magistrate level were prosecuted by police officers, many of whom had little or no formal legal training.

Traditional justice systems continued to extensively supplement the central government judiciary, especially in rural areas, in cases involving family law, inheritance, and land tenure. There were reports that local chieftains at times exceeded their mandates and administered harsh punishments. For example chiefs often judged criminal cases, such as rape, and there were reports that chiefs ordered rape victims to marry their attackers (see section 5).

The law does not limit the rights associated with a fair trial to any group; however, there are a number of civil laws and customary law that discriminate against women.

In April 2004 Freetown Port employees severely beat a port authority official who was investigating corruption. During the trial the port authority director allegedly bribed all 12 jurors, and the suspects who had been arrested for the beating were subsequently acquitted and released. The jurors later were arrested and charged with conspiracy to impede the cause of justice. Trials were ongoing at year's end.

Political Prisoners.—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.

Unlike in the previous year, there were no reports that Liberian combatants conducted cross border raids or forced villagers to be porters.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government at times limited these rights in practice. The press frequently published stories critical of the government; however, self-censorship may also have occurred.

More than 25 newspapers were published in Freetown during the year, covering a wide spectrum of interests and editorial opinion. Most of the newspapers were independent, and several were associated with opposition political parties. Reporting was often politicized and inaccurate, in large part because of poor journalistic skills, insufficient resources, and lack of professional ethics. Corruption among journalists was widespread. The number of newspapers fluctuated weekly. Newspapers openly and routinely criticized the government and its officials, as well as opposition parties and former rebel forces, but they also were accused of libeling individuals.

On May 10, five individuals beat Harry Yansaneh, the acting editor of *For di People* newspaper, who died on July 28 from his injuries. Police detained a parliamentarian, Fatmata Hassan Komeh, who allegedly ordered and oversaw the beating, and two others on August 26, and on August 30 police released them on bail pending trial. (Three suspects, who were Komeh's children, returned to their residence in the United Kingdom after the beating so arrest warrants for them could not be executed.) The beating took place soon after the parliamentarian served an eviction notice on several newspapers operating in a building she owned. At a press conference on November 7, the attorney general said that because the coroner in charge of the government inquest had not followed correct procedures, the case could not be charged to court. By year's end the government had taken no further action to move the case forward.

No action was taken against the police officers who assaulted two journalists in September 2004, nor against SLPP members who beat a journalist the same month.

Due to low levels of literacy and the relatively high cost of newspapers and televisions, radio remained the most important medium for public dissemination of information. Several government and private radio and television stations broadcast, featuring domestic news coverage and political commentary. UN Radio provided additional coverage of news and other current events.

The Public Order Act of 1965 criminalizes both defamatory and seditious libel; however, the law was infrequently applied and only in cases involving top officials. Punishment for first-time offenders can be up to three years' imprisonment, and subsequent seditious libel convictions can bring terms of up to seven years.

During the year officials used libel laws to suppress criticism of political or other leaders, and ordered security forces to arrest journalists. For example, on February 11, police arrested a newspaper editor after he published an article that criticized President Kabbah for failing to dismiss a minister accused of corruption. The editor was initially accused of seditious libel and held for three days, after which he was released.

On May 24, police arrested a newspaper editor and a reporter following the publication of an article that quoted an unnamed source that reportedly said that President Kabbah was angered by earlier reports alleging that the attorney general had accepted bribes. On May 27, a judge granted the defendants bail, and on June 7, both were acquitted.

Paul Kamara, the newspaper editor found guilty of seditious libel against President Kabbah in October 2004, was released from prison on November 29 after winning an appeal of his conviction. Kamara served just over one year of a two-year sentence, at times in solitary confinement.

The Independent Media Commission regulated independent media organizations. Although still subject at times to government influence, the commission took steps to increase its independence. In October the commission sponsored a workshop advocating the repeal of the criminal libel provisions of the Public Order Act.

Registration fees for radio stations ranged from approximately \$170 (500 thousand leones) for a 100-watt community radio station to \$2 thousand dollars (5.9 million leones) for approval to rebroadcast international programming such as that of Voice of America and the British Broadcasting Corporation. Annual renewal fees ranged from \$85 to 2 thousand dollars (250 thousand to 5.9 million leones). Newspapers were charged an annual registration fee of approximately \$35 (103 thousand leones). Although some newspapers had not paid the fees, none had been banned by year's end.

The paramount chief of Bo threatened to close down a radio station and banish a radio commentator after a September 12 broadcast in which the commentator charged that the recent ruling SLPP convention was rigged. The radio station manager sent the commentator on one month's leave, dispatched a letter of apology to the paramount chief, and paid the chief \$45 (130 thousand leones).

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice.

Police in Bo arrested 11 individuals who were allegedly associated with a November 18 demonstration in support of presidential hopeful Charles Margai, including Margai himself. The spontaneous demonstration occurred at a school alumni event to which both Margai and Vice President Berewa had been invited. Margai supporters crowded the streets when Margai left the school and briefly blocked the vice president's advancing motorcade. Authorities charged them with violations of the Public Order Act. By year's end a trial had not begun.

Members of the Chief Sam Hinga Norman Help Line, a group in Bo that supports the former CDF chief who was standing trial for war crimes at the SCSL, complained that local authorities denied group members the right to assemble in Bo to commemorate the third anniversary of Norman's arrest on March 10.

Unlike in the previous year, there were no reports that police harassed local groups that met in Kono to discuss mining practices.

Several large demonstrations took place during the year, including opposition party political rallies. Although some demonstrations were marred by violence, most were relatively peaceful, and security forces generally did not seek to prevent them from taking place.

On February 28 and March 1, police used tear gas to disperse a protest by the Fourah Bay College Student Union that became violent; one demonstrator died from gun shot injuries. Protesters threw stones, burned tires, attacked cars, and held policemen hostage. Police reportedly arrested 40 demonstrators, although press reports indicated that the number may have been as high as 52. There were reports of gunfire, and a 16-year-old girl, who was shot in the mouth, died two months later from her injuries (see section 1.d.).

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice.

Although the law requires political parties to register with the Political Parties Registration Commission (PPRC), the commission was not operational by year's end. As a result two new political parties were unable to register during the year (see section 3).

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

Societal Abuses and Discrimination.—On April 21, a Muslim public holiday, a group of Muslims in Rokupr burned the *igbala* (hut or shrine) where the local hunting society stored its traditional hunting masks so that the group could not stage its traditional parade. A local newspaper reported and police confirmed that the Muslims burned the masks because they believed that the tradition was a desecration of the Prophet Muhammad's birthday. Police arrested several persons, but the case was resolved out of court.

On May 19 and 20, an altercation in Freetown that began when a group of Anglican schoolchildren harassed a Muslim woman trying to cross the street escalated when a group of Muslims wielding sticks, knives, and copies of the Koran went to the children's church. The group threw objects at the church and broke most of its windows. After the incident church leaders cancelled Sunday services and closed the school. The Inter Religious Council hosted a series of meetings between the two groups to mediate the problem. On May 29, church services resumed, and the school re-opened on June 2.

There was no Jewish community, and there were no reports of anti-Semitic acts. For a more detailed discussion, see the 2005 *International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice; however, there were reports that police officers who operated security roadblocks outside of the capital often extorted money from motorists.

The law does not provide for forced exile, and the government did not use it. The border shared with Liberia was officially open, and authorities permitted refugees, returnees, and other persons to move regularly between the two countries; however, there were reports that police, customs, and army personnel demanded bribes at border crossing points.

Since 2000 approximately 271 thousand refugees have repatriated to the country. An estimated 13,500 persons have remained in refugee camps or integrated locally outside the country.

Internally Displaced Persons (IDPs).—Combatants from all sides targeted civilians during the country's 11-year civil war. Estimates of the number of IDPs in past years varied from 750 thousand to 2 million people.

No officially registered IDPs remained; however, one camp for war-wounded persons and their families remained open in Grafton. At year's end the camp population was approximately 520. Unlike in the previous year, there were no reports that refugees and IDPs returned to find their homes occupied.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; however, in practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status and asylum and cooperated with the UN High Commissioner for Refugees (UNHCR) and other organizations in assisting refugees.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention Related to the Status of Refugees and its 1967 protocol. During the year the government continued to provide temporary protection to Liberians who had fled the conflict in their country. At year's end, according to the UNHCR, there were approximately 47 thousand Liberian refugees living in refugee camps in the country and an additional 12 thousand living outside of the camps.

Unlike in 2004 there were no reports that refugees were sexually exploited in camps by locally employed staff of international NGOs in exchange for extra food and aid materials; however, there were reports that Liberian refugees were victims of sexual abuse (see section 5).

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through generally free and fair elections held on the basis of universal suffrage; however, the 2002 and 2004 elections were

marred by irregularities, although many observers judged them to be generally free and fair.

Elections and Political Participation.—Eleven political parties participated in the May 2002 presidential and parliamentary elections. President Kabbah of the SLPP was re-elected with 70 percent of the popular vote. The Revolutionary United Front Party, the political successor to the RUF rebel forces, fielded presidential and parliamentary candidates, but it won only 1.7 percent of the vote. In parliament, the SLPP won 83 of the total 112 seats; only 2 other parties won seats. Only the SLPP was represented in the cabinet after two cabinet members, who were earlier considered to be independent, joined the SLPP following the elections. Many international monitors declared the elections free and fair; however, there were credible reports of significant abuse of incumbency, uneven voter registration, manipulation of vote counting, and partisan action by the National Electoral Commission (NEC). There also were reports of voter coercion by party bosses and traditional leaders.

In May 2004 the first local elections in 32 years were held. International and domestic monitors judged them to be generally free and fair at the time; however, evidence of widespread electoral fraud by both the SLPP and the All People's Congress (APC) emerged after voter turnout numbers were analyzed and found in many districts to exceed the total number of registered voters. A UNAMSIL electoral consultant concluded, however, that fraud did not alter the outcome of the elections because it was equally spread across party lines.

During the year the NEC began a reform campaign with a new commissioner, civil society activist Christiana Thorpe, at its head. With the assistance of the donor community, the NEC dismissed all staff that had been seconded from other ministries, hired and trained new staff, formed a committee to review and streamline electoral legislation, and prepared for a nationwide electoral district boundary demarcation in preparation for the presidential and parliamentary elections scheduled for 2007.

Although there were no formal government restrictions on the political opposition, the incumbent party enjoyed significant advantages. Opposition MPs complained that they did not receive television coverage. Members of the APC, the main opposition to the ruling SLPP, successfully captured the majority of seats on the Freetown City Council, but the city's APC mayor complained that for political reasons the council did not receive SLPP-controlled government funds, a charge that the government and some independent observers disputed.

The law calls for a Political Parties Registration Commission (PPRC); however, the commission was not operational. During previous election cycles, political parties registered with the NEC; however, the NEC discontinued that function during the year as part of its reform efforts. President Kabbah swore in the first group of PPRC members on December 19, but the commission was not operational by year's end. As a result, at least two new political parties were unable to register, thus could not legally engage in political activities.

The basic unit of local government is the paramount chief, who is elected for a life term. Candidates for the position are limited to members of local ruling houses. Only tribal authorities were allowed to vote for paramount chief, and in the north only men could be designated as tribal authorities. Although paramount chiefs' authority exists independently of the central government, they frequently displayed party affiliations and were influenced by the party in power.

There were 16 women in the 112-seat parliament, 3 women in the 28-minister cabinet, 4 female judges out of a total of 7 on the high court, and 3 female judges out of 6 on the court of appeal. A significant number of women worked as civil servants.

Only citizens can vote, and the Citizenship Act restricts the acquisition of citizenship at birth to persons of "patrilineal Negro-African descent." Legal requirements for naturalization effectively denied citizenship to many long-term residents, and a large number of persons of Lebanese ancestry, who were born and resided in the country, could not vote (see section 5). While a small percentage of the Lebanese population had been naturalized and did vote, others insisted that naturalization implied second-class citizenship and did not seek it.

Government Corruption and Transparency.—Corruption in the executive, legislative, and judicial branches was common. Official corruption was exacerbated by low salaries and a lack of accountability. The president continued to publicly support the Anti-Corruption Commission (ACC). Since the ACC's inception in July 2000, approximately 10 percent of the 551 cases investigated were charged to court. At year's end there were 16 cases in court, and 21 of the 35 completed cases had resulted in a conviction. No high-level government officials were convicted by year's end, however, and some observers complained that cases against corrupt high-level

officials were not prosecuted because the ACC lacked the authority to refer cases directly to court. During the year the ACC focused on improving transparency at “hot spot” ministries where opportunities for corruption were most pronounced.

There is no provision in the law for public access to government information; however, the government at times provided access to both citizens and non-citizens, including foreign media.

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

A number of domestic and international human rights groups generally operated with few government restrictions, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

The National Forum for Human Rights (NFHR) served as an umbrella organization for human rights groups in the country. There were 41 human rights NGOs registered with the NFHR at year’s end, and all were reportedly active. The majority of domestic human rights NGOs focused on human rights education. A few NGOs, including the Campaign for Good Governance, the Lawyers’ Center for Legal Assistance, and Access to Justice, actively monitored and reported on human rights abuses.

Human rights monitors traveled freely throughout the country. Intensive reporting, data collection, and investigations continued. During the year representatives of international NGOs, foreign diplomats, the ICRC, and UN human rights officers were able to monitor trials and to visit prisons and custodial facilities; however, government authorities did not grant permission to at least one human rights NGO to visit Pademba Road prison during the year (see section 1.c.).

UNAMSIL operated eight provincial human rights offices in addition to the UNAMSIL Human Rights Section in Freetown, which conducted training, monitoring, reporting, and advocacy throughout the year. During 2003 the UNAMSIL Human Rights Section led a campaign to establish a National Human Rights Commission as mandated by the 1999 Lome Peace Accord. At year’s end advertisements had run in newspapers for commission positions, but a civil society panel of screeners found the first round of applicants unqualified for presidential consideration.

During the year the Parliamentary Human Rights Committee took a proactive role in protecting human rights. It passed legislation against trafficking in persons, held public discussions on human rights issues, and worked with international organizations to advance other human rights-related initiatives.

The SCSL was established in 2002 to try those who “bear the greatest responsibility for the commission of crimes against humanity, war crimes, and serious violations of international humanitarian law.”

Trials began in March of AFRC leaders Alex Tamba Brima, Brima Bazzy Kamara, and Santigie Borbor Kanu. Trials of CDF leaders Sam Hinga Norman, Moinina Fofana, and Allieu Kondewa, begun in June 2004, and trials of RUF leaders Issa Sesay, Morris Kallon, and Augustine Gbao, begun in July 2004, also were ongoing at year’s end.

In 2003 the SCSL indicted 13 persons, including former Liberian President Charles Taylor, who had accepted an offer of asylum in Nigeria in 2003. All of those indicted were charged with crimes against humanity, violations of Article 3 common to the Geneva Conventions and of Additional Protocol II, and other serious violations of international humanitarian law. Specific charges included murder, rape, extermination, acts of terror, sexual slavery, conscription of children into an armed force, attacks on UN peacekeepers, and looting and burning of homes from 1997 to 1999.

In October 2004 the TRC, established in 2002 to provide a forum for publicly airing the grievances of victims and the confessions of perpetrators during the civil war, completed its activities and delivered its final report and recommendations to the government. The full version of the final report was distributed to the public in August. The report contained a separate child-friendly version, since children played such large roles as both victims and perpetrators of violence during the war. The report concluded that years of bad governance, endemic corruption, and denial of basic human rights created the conditions that made the conflict inevitable. The commission offered a number of recommendations on legal, political, and administrative reforms, including elimination of the death penalty. The government released a white paper in June accepting some and rejecting or ignoring other recommendations. Civil society groups criticized the government’s response and called the white paper too vague.

The UN and numerous NGOs, both domestic and international, continued to educate and sensitize the population about the TRC and the SCSL, and the government generally supported these efforts.

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

The constitution prohibits discrimination on the basis of race, tribe, sex, place of origin, political opinions, color, or creed; however, the government did not enforce this prohibition effectively, and a number of legal acts and customary laws contravene these constitutional provisions.

Women.—The law does not specifically prohibit domestic violence and the government rarely enforced the provisions contained in the 1861 Offenses Against the Persons Act for violent acts against women, including assault, wounding, and rape. Domestic violence against women, especially wife beating and forced sexual intercourse, was common. The police were unlikely to intervene in domestic disputes except in cases involving severe injury or death. In rural areas, polygyny was widespread. Women suspected of marital infidelity often were subjected to physical abuse; frequently, women were beaten until they divulged the names of their partners. Because husbands could claim monetary indemnities from their wives' partners, beatings often continued until the women named several men, even if there were no such relationships. There also were reports that women suspected of infidelity were required to undergo animistic rituals to prove their innocence.

In 2000 the government established the Family Support Unit (FSU) to deal with gender-based violence. The SLP had FSU offices at 18 police stations around the country. Although some international human rights workers complained that the FSU lacked basic infrastructure and communications support, the UN reported that the FSU was increasingly playing a leading role in investigating cases of violence against women and children. It was also engaged in community education and sensitization through radio and television programs.

The law prohibits rape, which was punishable by up to 14 years' imprisonment; however, rape was viewed as a societal problem. Rape cases were frequently settled out of court, and rape victims were sometimes ordered to marry their attackers. There were reports that some women and girls abducted during the war remained with their captors due to intimidation and a lack of options. Unlike in the previous year, there were no reports of the sexual abuse of refugees in refugee camps by locally employed staff of international NGOs in exchange for extra food and aid materials; however, there were reports that Liberian refugees were victims of sexual abuse. Cases of rape were underreported and indictments were rare, especially in rural areas. Since the establishment of the FSU, however, reports of rapes, especially involving child victims, have steadily increased. In 2003 the FSU reported that 83 percent of rape cases reported involved girls under the age of 18. Rapes have been documented involving children as young as a few months old. An NGO reported that 87 percent of perpetrators were known to rape victims, and included teachers, family friends, relatives, and neighbors.

Medical and psychological services for rape victims were very limited. Rape victims were required to obtain a medical report to file charges; however, government doctors charged \$20 (approximately 60 thousand leones) for such an exam, which was prohibitively expensive for most victims. Since 2003 human rights monitors have urged the government to eliminate or lower the cost of medical reports. The International Rescue Committee ran centers in Freetown, Kenema, and Koidu to perform medical examinations, provide counseling for victims of sexual assault, and offer legal assistance for victims who wanted to pursue their cases in court. Although approximately 90 percent of female victims chose to go to court, most cases did not make it to trial because of inefficiencies in the judicial system.

No law prohibits FGM, and it was practiced widely at all levels of society. In past years prominent government officials openly supported the practice. The less severe form of excision was practiced. UNICEF and other groups estimated that 80 to 90 percent of women and girls had undergone the practice; however, some local groups believed that this figure was overstated. FGM was practiced on girls as young as five years old.

Although a number of NGOs worked to eradicate FGM and to inform the public about its harmful health effects, active resistance by women's societies, in which FGM was commonly a part of initiation rites, countered efforts to stop the practice.

Although police occasionally detained practitioners on accusations of forced mutilation or manslaughter, human rights workers reported that police remained hesitant to interfere in cultural practices. When police in Lunsar attempted to investigate a case of forced circumcision of a woman and her daughter in September, the men's secret society and the local paramount chief reportedly intervened to stop the investigation.

On June 6, an eight-year-old girl from Tainkatopa died after her circumcision ceremony. Although the case was reported to the police, they made no arrests by year's end.

On August 15, a six-year-old girl from Calabatown died after her circumcision ceremony. The case was reported to the police; however, they made no arrests by year's end.

In August 2004 a secondary-school student died from complications from female circumcision. Police completed an investigation, but by year's end no indictments had been filed.

There has been some progress in reducing the practice. An anti-FGM NGO reported that by year's end 700 *digbas* (practitioners) had agreed to "lay down their knives" and abandon the practice and that 500 others were prepared to do so.

Prostitution was widespread and not prohibited by law; however, prostitutes sometimes were arrested and charged with loitering or vagrancy. Many women and girls, particularly those displaced from their homes and with few resources, resorted to prostitution as a means to support themselves and their children.

Trafficking in women for prostitution was a problem (see section 5, Trafficking).

Sexual harassment is not specifically prohibited by law and it was widespread. In 2002 a women's parliamentary conference identified sexual harassment as a barrier to women standing for office.

The law provides for equal rights for women; however, in practice women faced both legal and societal discrimination. In particular, their rights and status under traditional law varied significantly depending upon the ethnic group to which they belonged. All women born in the Western (Freetown) Area, which is governed by general law, had a statutory right to own property in their own names. Many women born in the provinces, which are governed by customary laws that vary from chieftom to chieftom, did not. In the Temne tribe, women could not become paramount chiefs; however, in the Mende tribe, there were several female leaders. Women did not have equal access to education, economic opportunities, health facilities, or social freedoms. In rural areas women performed much of the subsistence farming and had little opportunity for formal education.

The country was a point of origin, transit, and destination for internationally trafficked persons. The majority of victims were women and children (see section 5, Trafficking).

The Ministry of Social Welfare, Gender and Children's Affairs has a mandate to protect the rights of women; however, the ministry was under-financed and relied on the assistance of international organizations and NGOs to help its efforts to fulfill its mandate.

Women were active in civic and philanthropic organizations. Domestic NGOs, such as 50/50, the Forum for African Women Educationalists, and Women's Forum raised awareness of the lack of gender equality and other women's issues, and they encouraged women to enter politics as candidates for parliament.

Children.—The government was committed to improving children's education and welfare; however, it lacked the means to provide them with basic education and health services.

Public education is available up to the university level. The law requires school attendance through primary school; however, only 41 percent of primary school-aged children were enrolled in school, according to UNICEF. Schools, clinics, and hospitals throughout the country were looted and destroyed during the 11-year insurgency, but the majority have been rebuilt. A large number of children received little or no formal education. Formal and informal fees largely financed schools, but many families could not afford to pay them. The average educational level for girls was markedly below that of boys, and only 20 percent of women were literate. At the university level, male students predominated.

Government medical care was extremely limited throughout the country, but boys and girls had equal access.

Sexual violence against children was a problem. At a Freetown sexual assault service center, 83 percent of the clients were between 6 and 15 years old. There were reports that children as young as three months were raped.

FGM was commonly performed on girls (see section 5, Women).

Child prostitution was a problem (see section 5, Trafficking).

To address the issue of child prostitution in the capital, the Freetown City Council discussed the introduction of a regulation that would bar minors from nightclubs, a common venue for commercial sex transactions, but by year's end the city council had taken no action to pass such a regulation.

Child labor, including forced child labor, occurred. An estimated 57 percent of children between the ages of 5 and 14 were engaged in some form of child labor (see section 6.d.).

Street children were a problem.

Trafficking in Persons.—In August President Kabbah signed a law prohibiting trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country.

A person convicted of trafficking can be sentenced to up to 10 years in prison. Although there were no prosecutions or convictions by year's end, on August 22 police arrested two people in Makeni for suspected trafficking of eight children. By year's end, the police investigated the case and delivered the results to the public prosecutor's office; however, preliminary indications revealed that the suspects were likely engaged in US-related adoption fraud rather than trafficking.

A number of government agencies are responsible for combating trafficking, including the SLP, Ministry of Social Welfare, Gender, and Children's Affairs, the Immigration Department, and the Office of National Security. The government assisted in reintegrating trafficking victims when requested; however, there were no known requests for assistance with international investigations or extraditions.

The country continued to be a source, transit point, and destination for internationally trafficked persons. The majority of victims were women and the majority of traffickers were thought to be family members or friends who lured victims from their home villages with promises of education, caretaking, or employment.

There were no specific figures on the number of persons trafficked. However, anecdotal reports indicated the following: children were trafficked from the provinces to work in the capital as laborers and commercial sex workers and to diamond areas for labor and sex work; persons were trafficked from neighboring countries for domestic and street labor and for commercial sex work; persons were trafficked out of the country to destinations in west Africa, including Nigeria, Cote d'Ivoire, Guinea, and Guinea-Bissau for labor and sex work; persons were also trafficked to Lebanon, Europe, and North America; and the country served as a transit point for persons trafficked from elsewhere in west Africa and possibly the Middle East.

In an effort to combat trafficking in persons, government authorities became slightly more vigilant in their efforts to scrutinize minors leaving the country without their parents. The government also publicized trafficking issues through government-sponsored radio programs and in official statements to the press.

Document fraud was common and there were frequent reports that government registry officials, police, immigration officials and border guards accepted bribes, in some cases to facilitate traffickers.

The government worked closely with NGOs on trafficking-related issues to develop training programs, but was hampered by a lack of resources and an incomplete understanding of the problem. The government supported prevention programs, including community education initiatives. During the year members of the Parliamentary Human Rights Committee traveled to the provinces to discuss trafficking with their constituencies.

Persons with Disabilities.—The law does not prohibit discrimination against persons with physical and mental disabilities. No law mandates accessibility to buildings or assistance to such persons. There was no government policy or program to assist persons with disabilities; public facility access and discrimination against persons with disabilities were not considered public policy priorities. A few private agencies and organizations provided job training for such persons.

There was no outright discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, given the high rate of general unemployment, work opportunities for such persons were very limited.

Despite the sizeable numbers of persons disabled by polio, there was little government assistance to this group. In September 2004 the SLP evicted residents without notice from a facility for polio victims.

Some of the many individuals maimed during the civil war, or who had their limbs amputated by rebel forces, received special assistance from local and international humanitarian organizations. Such programs involved reconstructive surgery, prostheses, and vocational training to help victims acquire new work skills; however, amputees complained that they did not receive sufficient assistance compared to ex-combatants, who received aid through the demobilization process. In its white paper reply to the recommendations of the final TRC report, the government accepted in principle the need to work towards an aid program for war wounded, amputees, and victims of sexual violence; however, assistance to these groups remained limited and mostly funded by outside entities.

National/Racial/Ethnic Minorities.—The ethnically diverse population consists of about 18 ethnic groups of African origin, many of whom speak distinct primary languages and who were concentrated outside urban areas. In addition there are sig-

nificant Lebanese and Indian minorities. Little ethnic segregation was apparent in urban areas, where interethnic marriage was common. The two largest ethnic groups were the Temne in the North and the Mende in the South. These groups each constituted an estimated 30 percent of the population; however, the Krio, which constituted 1 percent of the population, have historically dominated the civil service and judiciary. Strong ethnic loyalties, bias, and stereotypes existed among all ethnic groups. The Temne and Mende have historically vied for political power and the violence during the 11-year civil war had some ethnic undertones. For example the Minorities At Risk Project reported that although the RUF did not specifically advocate for Temne issues, ethnic Temnes predominated in RUF leadership and ranks. After the SLPP victory in the 1996 elections, the RUF objected to what they claimed was Mende hegemony and claimed that the Mende-dominated SLPP government used ethnic criteria in appointing ministers to marginalize non-Mendes. Although the SLPP actively worked to counter this perception (President Kabbah himself is Mandingo), most citizens viewed the SLPP as a predominantly Mende party. Ethnic loyalty remained an important factor in the government, armed forces, and business. Complaints of ethnic discrimination in government appointments, contracts, military commissions, and promotions were common.

Residents of non-African descent faced institutionalized political restrictions (see section 3). Legal requirements for naturalization, such as continuous residence in the country for 15 years, or the past 12 months and 15 of the previous 20 years, effectively denied citizenship to many locally born residents, notably members of the Lebanese community.

Other Societal Abuses and Discrimination.—There was no official discrimination based on persons being HIV/AIDS positive; however, persons with HIV/AIDS were stigmatized in society.

The law prohibits homosexual acts, and there was both official and societal discrimination based on sexual orientation. On November 29, the Ministry of Social Welfare, Gender, and Children's Affairs condemned same-sex marriage at an Inter-Religious Council meeting.

In October 2004 a prominent gay activist was killed in her office. The activist's recently-dismissed domestic employee was arrested and charged with the crime. On July 11, the defendant, along with approximately 24 other prisoners, escaped custody. At year's end the defendant was still at large.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of association, and in practice workers had the right to join independent trade unions of their choice. Police and members of the armed services are prohibited from joining unions. Approximately 30 to 60 percent of workers in the formal sector in urban areas, including government workers, were unionized, but attempts to organize agricultural workers and mineworkers were largely unsuccessful. In general, labor unions joined the Sierra Leone Labor Congress (SLLC), but membership was voluntary. There were no reliable statistics on union membership.

The law does not prohibit antiunion discrimination against union members or organizers and does not prohibit employer interference in the establishment of unions; however, there were no reports of such incidents during the year. An employee fired for union activities could file a complaint with a labor tribunal and seek reinstatement. Complaints of discrimination against trade unions were made to a tribunal.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government generally protected this right; however, by year's end the government had not yet granted a bargaining certificate to the Civil Servant's Union, whose application has been on file since 1986. The law provides for collective bargaining, and the government protected this right in practice. Collective bargaining must take place in trade group negotiating councils, each of which had an equal number of employer and worker representatives. According to the International Confederation of Free trade Unions, collective bargaining was widespread in the formal sector, and most enterprises were covered by collective bargaining agreements on wages and working conditions. Unions have the right to strike, although the government could require 21 days' notice, and workers exercised this right in practice.

There were no export processing zones.

No law prohibits retaliation against strikers, even for a lawful strike. The government did not take action against strikers during the year; however, there were reports that a Freetown hotel fired two SLLC-affiliated employees after a one-day strike in February to protest poor working conditions.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced and compulsory labor, including by children; however, forced labor remained a problem. Under the Chiefdom's Council Act, individual chiefs may impose forced labor as punishment, and have done so in the past. They also may require members of their villages to contribute to the improvement of common areas, a practice that occurred only in rural areas. There is no penalty for noncompliance. There were reports of bonded labor in rural areas, and debt bondage was common among the thousands of alluvial diamond diggers and miners.

Forced and compulsory labor by children occurred (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits forced and bonded labor by children; however, child labor remained a problem due to strong tradition and high levels of poverty, which averaged 80 percent in rural areas. The Ministry of Mineral Resources enforced regulatory prohibitions against the worst forms of child labor. The ministry also was charged with protecting children working in the diamond mining areas; however, enforcement was not always effective.

The law allows children as young as 12 to engage in "light" labor, and employers have the authority to determine working hours.

The law does not limit working hours for children; however, it does set health and safety standards. The law only requires school attendance through primary school, which children generally complete by age 12 (see section 5).

In rural areas children worked seasonally on family subsistence farms. Children also routinely assisted in family businesses and worked as petty vendors. Adults engaged a large number of street children to sell, steal, and beg. Because the adult unemployment rate remained high, few children were involved in the industrial sector or elsewhere in the formal economy.

There were reports that foreign employers hired local children to work as domestic laborers outside the country at extremely low wages and in poor conditions. The Ministry of Social Welfare, Gender and Children's Affairs was responsible for reviewing the issuance of passports to minors, but did not do so effectively, and the prevalence of document fraud made effective government oversight difficult.

There were reports that children whose parents sent them to friends or relatives in urban areas for education were forced to work on the street. There also were reports that adults asked orphanages for children to be used as household help.

Many girls, particularly those displaced from their homes and with few resources, resorted to prostitution as a means to support themselves (see section 5).

The international NGO World Vision continued to help child prostitutes (girls between the ages of 14 and 20) by paying their school fees, providing them with educational materials, and caring for girl mothers. Out of 304 girls assisted, 86 were full-time sex workers.

Children continued to work in alluvial diamond mining, particular in areas that were less accessible to government monitors. In many cases children worked alongside parents or relatives. Children who engaged in diamond mining often abandoned educational or vocational training and, according to a recent study, the work was inherently exploitative.

Bonded child labor was not prevalent in alluvial diamond mining.

Some of the children who were hired by employers outside the country may have been victims of trafficking (see section 5).

The Ministry of Labor was responsible for enforcing child labor laws. Ministry of Mines and Mineral Resources mine monitoring officers enforced rules against child mining in diamond mining areas. Authorities did not have adequate resources to effectively enforce child labor policies.

e. Acceptable Conditions of Work.—The national minimum wage, covering all occupations, was set at \$14 (40 thousand leones) per month, which did not provide a decent standard of living for a worker and family. The Ministry of Labor was responsible for enforcing the minimum wage, but it lacked the resources to effectively execute its mandate. Most workers supported an extended family, often including relatives who were displaced by the insurgency in the countryside. It was common to pool incomes and to supplement wages with subsistence farming and child labor (see section 6.d.).

Although not stipulated by law, the standard workweek was 40 hours (60 hours for security personnel). Employers negotiated work hours with employees at the time of hire, and overtime was to be paid if an employee's work hours exceeded the standard workweek.

The Ministry of Health and Sanitation was responsible for setting and enforcing health and safety standards. Although the government set these standards, it lacked the funding to properly enforce them. Trade unions provided the only protection for

workers who filed complaints about working conditions. Initially, a union could make a formal complaint about a hazardous working condition; if this complaint was rejected, the union could issue a 21-day strike notice. If workers were to remove themselves from dangerous work situations without making a formal complaint, they risked being fired.

The law protects both foreign and domestic workers; however, there were fewer protections for illegal foreign workers.

SOMALIA ¹

Somalia, with an estimated population of 8.5 million, has been without a central government since 1991. The country is fragmented into three autonomous areas: the Transitional Federal Government (TFG) in the south, the self-declared Republic of Somaliland in the northwest, and the State of Puntland in the northeast. In August 2004 a 275-member clan-based Transitional Federal Assembly (TFA) was selected, and in October 2004 the TFA elected Abdullahi Yusuf Ahmed, former Puntland president, as the Transitional Federal president. In December 2004 Yusuf Ahmed appointed Ali Mohammed Ghedi as Prime Minister. Presidential elections in Somaliland, deemed credible and significantly transparent, were held in April 2003. During Somaliland parliamentary elections in September there was little evidence of election violence or intimidation, and most voters were able to cast their ballots without undue interference. In January after years of internecine power struggles, Puntland's unelected parliament selected General Adde Musse as president. The civilian authorities did not maintain effective control of the security forces.

Security conditions were relatively stable in many parts of the country, but during the year serious inter-clan and intra-clan fighting continued in the central regions of Hiran and Middle Shabelle, the southern regions of Bay, Bakol, Gedo, Lower Shabelle, Middle Juba, Lower Juba, and in Mogadishu. Infighting among factions of the Rahanweyn Resistance Army (RRA), which controlled Bay and Bakol, continued as RRA leaders fought to assert control over Baidoa. No group controlled more than a fraction of the country's territory.

The country's human rights record remained poor and serious human rights abuses continued. Unemployment, malnutrition, drought, floods, ethnic fighting, the Indian Ocean tsunami, and the displacement of more than 400 thousand persons exacerbated the country's already extremely poor human rights situation. The following human rights problems were reported:

- abridgement of citizens right to change their government
- politically motivated killings
- unlawful killings
- kidnapping
- torture, rape, and beatings
- impunity
- harsh and life threatening prison conditions
- arbitrary arrest and detention
- denial of fair trial
- limited privacy rights
- restrictions on freedom of speech, press, assembly, association, religion, and movement
- discrimination and violence against women, including rapes
- female genital mutilation (FGM)
- abuse of children
- trafficking in persons
- abuse and discrimination against clan and religious minorities
- restrictions on workers' rights
- forced labor, including by children
- child labor

¹The United States does not have diplomatic representation in Somalia. This report draws in part on non-U.S. Government sources.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Since the collapse of the government in 1991 tens of thousands of persons, mostly noncombatants, have died in interfactional and interclan fighting. Incidents of arbitrary deprivation of the right to life occurred in the following contexts: factional militia fighting for political power and control of territory and resources, including revenge reprisals; criminal activities, widespread banditry, settlement of private disputes over property and marriage; and revenge missions after incidents such as rapes, family disagreements, and abductions. The vast majority of killings during the year resulted from clashes between militias or from unlawful militia activities; several occurred during land disputes, and a number involved common criminal activity. Numerous killings continued as a result of inter-clan and intra-clan fighting between the following groups: The RRA sub-factions in Bay and Bakol regions; the Somali National Front sub-factions in north Gedo; the Awlyahan and Bartire subclans in Buale; the Dir and Habar Gidir subclans in Galkacyo; the Dir and Marehan subclans in Galgudud; the former Transitional National Government and gunmen in Mogadishu; Abgal intra-clan fighting in and around Jowhar; Habar Gidir intra-clan fighting in Mudug; Puntland's forces and those of Somaliland in the disputed regions of Sool and Sanaag; and General Mohammed Said Hersi Morgan's Somali Patriotic Movement and those of the Juba Valley Alliance in Kismayu.

On January 2, in Somaliland police allegedly shot and killed two unarmed persons and wounded two others near the Ministry of Public Works. The police unit leader and a police officer were arrested and being detained awaiting trial at year's end. Also in January a police officer allegedly shot and killed a person who was clearing roads for the municipality, reportedly at the instigation of a resident. The police officer remained in detention, and the authorities were investigating the incident at year's end.

During the year hundreds of civilians were killed, mostly during inter-clan or intra-clan militia clashes. For example, in the Kenya-Somalia border area of el-Waq, April and July fighting between the Garre and Marehan clans resulted in dozens of deaths, the displacement of thousands, and the closure of the border crossing in Mandera. In April fighting in central Somalia, in Galkayo and Obiyo, between subclans Habar Gidir Sa'ad and Habar Gidir Sulieman resulted in numerous deaths. In June fighting in Beledweyne between militias from the Galje'el and Jajele subclans, reportedly triggered by a land dispute and revenge for the killings of two Jajele men and one Galje'el man, resulted in at least 30 killings.

Medecins sans Frontieres said in a press statement that during the first half of the year it treated more than 500 cases of violent trauma injuries in its two hospitals in the town of Galkayo, the regional capital of central Somalia's Mudug region.

No action was taken against the responsible members of the security forces or militias who committed killings in 2004 and 2003. There were no developments in the reported killings due to inter- or intra-clan fighting in 2004 and 2003.

Landmines throughout the country resulted in human and livestock casualties, denial of pastoral and cultivable land, and road closures. The Landmine Monitor project reported that anti-personnel and anti-vehicle mines were available in the country, and could be bought from weapons markets in Mogadishu and other towns. In February an explosive device detonated on a street corner in Mogadishu while an African Union (AU) team was present to assess the security situation. The explosion killed two bystanders and injured six. No suspects were identified.

During the year several journalists were killed (see section 2.a.).

Attacks against humanitarian and nongovernmental organization (NGO) workers resulted in at least three deaths during the year (see section 4). In October a UN security official was shot and killed in Kismayu. No suspects had been identified at year's end. In April the trial of 10 persons accused of masterminding attacks on international aid workers in Somaliland began. In November a Somaliland court convicted 15 Somali men of responsibility for the killings and sentenced eight of them to death. An investigation into the death of a fourth aid worker, Annalena Tonelli, was reopened in light of new evidence, and the court ordered investigations into the roles of Aden Hashi 'Ayro and Ahmed Abdi Godane to continue at year's end.

During the year there were a number of apparently politically motivated killings by unknown assailants. In most cases, the victim had made statements in support of the deployment of international peacekeeping forces to the country to facilitate the relocation of the TFG from Kenya to Mogadishu, a proposal opposed by various armed groups: some preferred the protection of individual cabinet members' militias

to the imposition of foreign forces, particularly those drawn from neighboring countries; other groups were believed to be allied with domestic Islamist groups opposed to any central government. Observers noted that some of the killings were intended as a warning to the TFA, the TFG, and any outside intervention force. In January three men shot and killed Abdirahman Diriye Warsame, a veteran of the insurgency against former president Siad Barre. On January 22, gunmen shot and killed Mogadishu police chief General Yusuf Sarinle. In May a former military officer, Colonel Mohamed Sa'id Abdulle was killed near his home in Mogadishu. There were at least nine other politically motivated killings of former security officials, activists, or intellectuals during the year. No suspects had been identified in these cases or in other politically motivated cases from previous years.

In May during a rally at the stadium in honor of the TFG prime minister's visit, an explosive device went off, killing 14 and injuring at least 38 persons. The explosion could have been an accidental discharge of a grenade by a bodyguard, although it remained unclear at the year's end.

b. Disappearance.—There were no reports of politically motivated disappearances, although cases easily might have been concealed among the thousands of refugees and displaced persons.

During the year, there were numerous kidnappings by militia groups and armed assailants who demanded ransom for hostages. The UN Independent Expert on Human Rights in Somalia (UNIE) noted after his January-February visit to the country, that the incidence of kidnapping remained high. The majority of kidnappings were reported in the southern regions, especially Mogadishu, where ransoms allegedly funded purchases of weapons and ammunitions. In recent years UN staff or consultants have been kidnapped periodically in the country (see section 4). There were no investigations or action taken against the perpetrators of any kidnappings during the year.

There were no investigations or action taken against the perpetrators of kidnappings in 2004 or 2003.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The unimplemented Transitional Federal Charter (TFC) prohibits torture, and the Puntland Charter prohibits torture "unless sentenced by Islamic Shari'a courts in accordance with Islamic law"; however, there were some reports of the use of torture by the Puntland and Somaliland administrations and warring militiamen against each other or against civilians. Observers believed that many incidents of torture were not reported. Prison guards beat inmates in prison.

Security forces, police, and militias also abused and beat persons during the year. During a January 26 to February 7 mission to Somaliland, the UNIE noted an increase in police brutality in Somaliland. Acts of violence, including several killings, continued against TFG supporters or members (see section 1.a.).

On February 2, 16-year-old Zamzam Ahmed Dualeh was unconditionally freed by authorities and released into the custody of the UNIE. In August 2004 in Hargeisa, Somaliland police arrested and detained Dualeh and Omar Jama Warsame, her taxi driver, on espionage charges; both allegedly were beaten in detention, and Dualeh claimed that six policemen tortured and raped her. In December 2004 Dualeh was tried as an adult without legal representation and sentenced to five years' imprisonment. The four attorneys retained by local human rights activists to represent Dualeh were detained and sentenced to four years' imprisonment after they asked the judge to withdraw from the case due to alleged bias; in December 2004 the attorneys were released on appeal after they paid a fine.

There continued to be reports of rapes, largely committed by militia members. Factions have used rape as a weapon of war to punish and intimidate rival ethnic factions.

There were reports of rapes of Somali women and girls in refugee camps in Kenya (see section 2.d.).

There were prisoners of war in Somaliland and Puntland. Other human rights violations occurred in the contested border region of Sool and Sanaag.

Militia and other groups attacked humanitarian and NGO workers, which resulted in deaths and injuries (see section 4).

No action reportedly was taken against Somaliland or Puntland forces, warlord supporters, or members of militias responsible for torturing, beating, raping, or otherwise abusing persons in 2004 or 2003.

Although reliable statistics were not available, a large number of persons were killed and injured as a result of inter-factional and inter-clan fighting (see section 1.a.).

Prison and Detention Center Conditions.—Prison conditions remained harsh and life threatening. The main prison in Hargeisa, built in 1942 to hold 150 inmates,

held over 800 prisoners. After his January–February visit, the UNIE stated that in comparison to his previous visits in 2002 and 2003, the prison had deteriorated to an appalling condition. The UNIE noted that the prisons lacked funding and management expertise. Overcrowding, poor sanitary conditions, a lack of access to adequate health care and inadequate food and water supply persisted in prisons throughout the country. Tuberculosis, HIV/AIDS, and pneumonia were widespread. Abuse by guards reportedly was common in many prisons. The detainees' clans generally were required to pay the costs of detention. In many areas, prisoners were able to receive food from family members or from relief agencies.

Juveniles frequently were held with adults. A major problem continued to be the incarceration of juveniles at the request of families who wanted their children disciplined.

The Puntland Administration permitted prison visits by independent monitors. Somaliland authorities permitted prison visits by independent monitors, and such visits occurred during the year.

d. Arbitrary Arrest or Detention.—In the absence of constitutional or other legal protections, various factions continued to engage in arbitrary arrest and detention, and there was no system of due process.

Role of the Police and Security Apparatus.—The police were generally ineffective. Corruption within the various police forces was endemic. Members of titular police forces throughout the country were often direct players in politically-based conflict, and owed their positions to other politically active individuals. In Somaliland, more than 60 percent of the budget was allocated to maintain a militia and police force composed of former troops. Abuses by police and militia members were rarely investigated, and impunity was a problem. Police generally failed to prevent or respond to societal violence.

Arrest and Detention.—Judicial systems are not well established, are not based upon codified law, do not function, or simply do not exist in most of the country. Respect of codified law requiring apprehension with warrants based on sufficient evidence issued by authorized officials; prompt judicial determinations; prompt access to a lawyer or family members; or other legal protections for the detained was rare. There is no evidence of a functioning bail system or equivalent.

Arbitrary arrest was a problem. Authorities in Puntland and Somaliland arbitrarily arrested journalists during the year as did faction and militia leaders (see section 2.a.).

In July gunman seized the crewmembers of an UN World Food Program (WFP) ship (see section 4).

There were no known reports of political detainees.

Lengthy pretrial detention was a problem. Persons were sometimes held for extended periods while awaiting trial. Militias and factions detained persons for unduly long periods without trial and without charge.

e. Denial of Fair Public Trial.—The unimplemented TFC provides for an independent judiciary; however, there is no national judicial system. The charter replaced the 1990 constitution; however, for many issues about which the charter is silent, the constitution still applies.

The charter provides for a high commission of justice, a supreme court, a court of appeal, and courts of first reference. Some regions established local courts that depended on the predominant local clan and associated factions for their authority. The judiciary in most regions relied on some combination of traditional and customary law, Shari'a, the Penal Code of the pre-1991 government, or some elements of the three. For example, in September the managing operator of K-50 airport was killed by a local man who was angry over removal of teashops from the terminal area. An aviation security force apprehended the man, who was turned over to traditional authorities. They summarily found him guilty and condemned him to death. Under the system of customary justice, clans often held entire opposing clans or subclans responsible for alleged violations by individuals.

There were functioning local Shari'a-based entities in various parts of southern Somalia that usually operated within clan parameters. Amnesty International reported that they did not meet international standards of fair trial.

Trial Procedures.—The unimplemented TFC provides for the right to be represented by an attorney. The right to representation by an attorney and the right to appeal did not exist in those areas that apply traditional and customary judicial practices or Shari'a. These rights more often were generally respected in regions that continued to apply the former government's laws, such as Somaliland and Puntland.

The Somaliland constitution provides for an independent judiciary; however, the judiciary was not independent in practice. Although Somaliland has a constitution

based on democratic principles, it continued to use the pre-1991 laws. There was a serious lack of trained judges and of legal documentation in Somaliland, which caused problems in the administration of justice. Untrained police and other persons reportedly served as judges. The UNIE reported that local officials had a tendency to interfere with legal matters. The UNIE also raised concerns about the Public Order Law in Somaliland, which reportedly has been used to detain and imprison people without trial.

The Puntland Charter has been suspended since the infighting between Abdullahi Yusuf and Jama Ali Jama began in 2001. The Charter provides for an independent judiciary; however, the judiciary was not independent in practice. The Puntland Charter also provides for a Supreme Court, courts of appeal, and courts of first reference. In Puntland clan elders resolved the majority of cases using traditional methods; however, those with no clan representation in Puntland were subject to the administration's judicial system.

In July there was a clash between the traditional justice methods and the state judiciary when Puntland President Adde Musa would not allow blood compensation by the clan of an accused killer of a police officer. President Musa insisted Puntland courts handle the case with the possibility of a death sentence if the accused was found guilty. On July 20, the sub-clan of the accused attacked the hotel outside where President Musa and TFG President Yusuf were residing, which resulted in the deaths of several security guards. The subclan also freed their imprisoned clansman.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The unimplemented TFC provides for the sanctity of private property and privacy; however, looting, land seizure, and forced entry into private property continued in Mogadishu and elsewhere, although on a smaller scale than in previous years. The Puntland charter and the Somaliland constitution recognize the right to private property; however, authorities generally did not respect this right in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The unimplemented TFC and the Somaliland constitution provide for freedom of speech and the press; however, there were incidents of harassment, arrest, and detention of journalists in all areas of the country, including Puntland and Somaliland. The Puntland charter provides for freedom of the press “as long as they respect the law”; however, this right was not respected in practice.

A law requires all media to register with the minister of information and imposes penalties for false reporting; however, the law had not been enforced by year's end. Critics alleged that if enforced, the law would provide authorities with censorship powers.

The print media consisted largely of short, photocopied dailies, published in the larger cities and often linked to one of the factions. Several of these newspapers nominally were independent and criticized faction leaders. In its annual survey on press freedom, Freedom House has ranked the country as “not free” every year from 1972–2004.

Somaliland has two daily newspapers—one government and one independent. There also was an English language weekly newspaper.

The majority of citizens obtained news from foreign news broadcasts, primarily the BBC, which transmitted a daily Somali-language program. The major faction leaders in Mogadishu, as well as the authorities of Somaliland, operated small radio stations. There were reportedly 11 FM radio broadcasts and 1 shortwave station in Mogadishu. A radio station funded by local businesses operated in the south, as did several other smaller FM stations in various towns in central and southern parts of the country. There was at least one FM station in both Puntland and Somaliland.

During the August general assembly of the Somali Journalist Network in Mogadishu, delegates pointed out that warlords, regional administrations, independent militias, clan-governed Islamic courts, and armed business groups posed security problems for journalists.

Harassment of journalists including detention without charge, assaults, and killings increased during the year. In February according to BBC news, a BBC international journalist, Kate Peyton, was shot from a passing car in front of her hotel shortly after arriving in Mogadishu. She was reportedly speaking to TFG officials about the security situation and whether it was safe for the government to relocate to Mogadishu. She died later from her wounds. No suspects were identified. In June a well-known radio commentator and poet was shot and killed in Mogadishu. Also in June a HornAfrik female reporter was shot and killed while attempting to cover the dismantling of a militia checkpoint in Mogadishu. In Sep-

tember the chairman of supreme council, Mohamed Barre Haji, and the secretary general, Omar Faruk Osman, of the National Union of Somali Journalists (NUSOJ) received death threats.

Numerous journalists were arrested. In April two journalists in Somaliland were dismissed from Radio Hargeisa and subsequently detained reportedly for the sake of national security; they were subsequently released. On June 30, authorities in Puntland arrested two STN journalists in Bossasso and held them for 13 days before they were released without charges. In September a journalist was detained after he failed to publish the proceedings of a press conference held by Yusuf Ali, the self-appointed governor of the Hiiran region. Supporters of Yusuf Ali reportedly put a pistol to the journalist's head and ordered him to tell his editor to publish the press conference. The NUSOJ facilitated the journalist's release. Militia loyal to Mohamed Dheere detained Abdullahi Kulmiye Adow after a controversial report on the TFG. He was released several days later and expelled from Jowhar. In September the editor of *Kaaha Bari* weekly newspaper, which is the oldest newspaper in Puntland, was arrested after reportedly publishing an article critical of an agreement between Puntland authorities and oil refineries.

In September authorities in the Puntland city of Bossasso arrested STN radio editor Awale Jama Salad, who had reported on his July detention at Bossasso prison, according to NUSOJ. Those reports, broadcast on STN and picked up by some local newspapers, alleged that officials at Bossasso prison were taking bribes to free prisoners and that conditions in the jail spread disease. Authorities accused Awale Jama of defamation and publishing false information, although he had not been officially charged, NUSOJ said. Authorities released Awale Jama after four days of detention in the Bossasso prison and the Puntland Intelligence Service headquarters.

There were no further developments in the 2004 and 2003 cases in which journalists were harassed and arrested.

In September 2003 Somaliland's information minister, Abdullahi Mohammed Duale, issued a statement banning independent television and radio stations in Somaliland, alleging that they posed a threat to national security; the ban remained in effect at year's end. Somaliland Television, which operated under a temporary license, was exempt from the ban. In March Somaliland police allegedly attempted to shut down a new radio station, Radio Horyaal, on the grounds that it was illegal because it was not registered.

Authorities did not restrict access to the Internet.

There were restrictions on academic freedom, and academicians practiced self-censorship. Abdi Samatar, a professor and vocal critic of the Somaliland administration, was banned from travel to Hargeisa, Somaliland, because of his academic research. In Puntland academics were required to obtain a government permit before conducting academic research. There were two universities in Mogadishu, two in Somaliland, and one in Puntland; however, there was no organized higher education system in most of the country.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The unimplemented TFC and the Somaliland constitution provide for freedom of assembly; however, the lack of security effectively limited this right in many parts of the country. The ban on demonstrations continued; however, demonstrations occurred throughout the country during the year. The government of Somaliland banned political demonstrations following the closely contested April 2003 multiparty elections (see section 3).

In May 100 members of the minority Gaboye community were detained after holding demonstrations in Hargeisa in response to a fatal shooting of one of their clansmen by a police officer. They were held incommunicado for a short period and then freed without charge.

Freedom of Association.—The unimplemented TFC provides for freedom of association; however, the charter was not enforced during the year.

The Puntland charter provides for freedom of association; however, the Puntland administration banned all political parties.

The Somaliland constitution provides for freedom of association, and this right was generally respected in practice. Legislation that governs the formation of political parties limits the number of political parties allowed to contest general elections to three. An ad hoc commission, nominated by the president and approved by the house of representatives, was responsible for considering applications. The law provides that approved parties that win 20 percent of the vote in Somaliland elections would be allowed to operate. There were three approved parties operating since the April 2003 elections.

Professional groups and local NGOs operated as security conditions permitted. The UN and other NGOs were evacuated from Jowhar in September due to security concerns.

c. Freedom of Religion.—There was no legal provision for the protection of religious freedom, and there were some limits on religious freedom. The unimplemented TFC establishes Islam as the national religion. Some local administrations, including Somaliland and Puntland, have made Islam the official religion in their regions.

Only Shafi'iyyah, a moderate Islamic doctrine followed by most citizens, is allowed in Puntland. Puntland security forces monitored religious activities very closely. In Puntland, religious schools and places of worship must receive permission from the Ministry of Justice and Religious Affairs to operate; such permission was granted routinely.

Under the regulations in Somaliland, religious schools and places of worship are required to obtain the Ministry of Religion's permission to operate. The ministry must approve entry visas for religious groups, and certain unspecified doctrines were prohibited.

Proselytizing for any religion except Islam is prohibited by law in Puntland and Somaliland and effectively blocked by informal social consensus elsewhere in the country. Christian-based international relief organizations generally operated without interference, as long as they refrained from proselytizing.

Non-Sunni Muslims often were viewed with suspicion by members of the Sunni majority. There was strong social pressure to respect Islamic traditions. Organized Islamic fundamentalist groups, whose goal was the establishment of an Islamic state, were actively engaged in the private sector and in political activities throughout the country.

Societal Abuses and Discrimination.—The small Christian community kept a low profile. Christians, as well as other non-Muslims who proclaimed their religion, sometimes faced societal harassment.

There were no reports of anti-Semitic acts, and there is no known Jewish community in the country.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The unimplemented TFC and the Puntland Charter provide for freedom of movement; however, this right continued to be restricted in some parts of the country. Checkpoints manned by militiamen loyal to one clan or faction inhibited passage by other groups. In the absence of a recognized national government, most citizens did not have the documents needed for international travel.

In June roadblocks in and around Mogadishu were removed in an effort to secure Mogadishu for the TFG. Members of parliament and civic leaders succeeded in removing 10 of 43 roadblocks in the city, agreeing to pay the freelance militia operating them \$70 per month in compensation. Militia members who refused to abandon their roadblocks in some instances were confronted by angry crowds who shouted at them and diverted traffic away to deny them revenue. Some of these roadblocks were subsequently re-established.

The law does not prohibit forced exile; however, none of the authorities used forced exile during the year.

Internally Displaced Persons (IDPs).—In January the UNIE estimated that more than 5 percent of the total population of 6.8 million, or approximately 370 to 400 thousand was categorized as most highly vulnerable IDPs, most of them women and children, residing within host communities in public buildings and temporary settlements. The largest populations were in Mogadishu (250 thousand) and Kismaayo (18,500) with the remainder scattered around the country.

As security conditions showed some stability in the northern parts of the country, refugees and IDPs returned to their homes. According to UN High Commissioner for Refugees (UNHCR) figures, 11,633 Somali refugees were repatriated to Somaliland and Puntland areas during the year, although data on countries of origin were not available. Despite sporadic harassment, including the theft of humanitarian provisions from convoys by militiamen, repatriation to the northern parts of the country generally took place without incident. The UNIE continued to report that IDP settlements in Somaliland were overcrowded, had poor sanitation, and offered little or no access to employment and education. No local, regional, or UN authorities have taken responsibility for the settlements.

This situation differs dramatically from that in the south of the country, where UNHCR can count only six returnees. As harvests failed to materialize in December due to the failed "Deyr" rains, populations in the south were on the move, with the expectation of IDP and refugee flows rapidly developing in 2006.

Protection of Refugees.—The 1990 constitution and unimplemented TFC do not include provisions for the granting of asylum or refugee status in accordance with the definition in the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, and there was no official system for providing such protection. In practice the authorities provided some protection against *refoulement*, the return of persons to a country where they feared persecution. The authorities granted refugee status or asylum.

The authorities in Somaliland have cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

There continued to be reports of rape of Somali women and girls in refugee camps in Kenya during the year. Somali bandits who crossed over the border perpetrated the majority of the rapes; Kenyan security forces and police committed a small number of the rapes. There were rapes, defilements, and abuse of Somali refugees in Kenyan refugee camps, according to the UNHCR. The rapes usually followed looting attacks by bandits and occurred when women and girls left the camps to herd goats, collect water or firewood, or at night when bandits entered the refugee camps. Many of the rapes reportedly resulted in pregnancies.

The security at these camps remained a problem, such as at Kakuma camp where rape was among the most frequently reported crimes, some reportedly perpetrated by members of the local Kenyan community. At some camps, such as Dadaab, refugees formed committees to combat such abuse with some success although women and children remained vulnerable to rape, abuse, and exploitation. In November 2004 the rape of a woman by three Turkana men outside the camp ignited a series of retaliatory incidents of violence, until UNHCR and police interceded. UNHCR also reported on the importance of evidence gathering after several acquittals of accused rapists due to lack of evidence.

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

In the absence of a fully functioning central government, citizens cannot exercise the right to change their government. In most regions, local clan leaders functioned as de facto rulers. Although many such leaders derived their authority from the traditional deference given clan elders, most faced opposition from intra-clan groups and political factions.

Elections and Political Participation.—In 2002 in Eldoret, Kenya, the Inter-Governmental Authority for Development-sponsored Somalia National Reconciliation Conference (SNRC) convened more than 400 delegates representing all clans and a wide spectrum of political, military, and traditional leaders to form a new government; Somaliland did not join the conference. Early in 2003 the SNRC moved to Nairobi, where a transitional charter was adopted but subsequently contested by several factions. In September 2004 the SNRC adopted, but did not implement, the TFC for a five-year TFG, which replaced the Transitional National Government, and selected a 275-member TFA, which replaced the Transitional National Assembly. In October 2004 the TFA elected Abdullahi Yusuf Ahmed, the former president of Puntland, as Transitional Federal president; Abdullahi Yusuf subsequently appointed Ali Mohammed Ghedi as prime minister. In December 2004 the president and prime minister swore in a new cabinet, which, in December 2004 received a vote of no confidence in the TFA. In January parliament gave a vote of confidence to a new, 89-person cabinet nominated by Prime Minister Ghedi. The new cabinet was formed according to the “4.5 formula,” fixing proportional representation in the cabinet by clan.

Representatives of the self-declared Republic of Somaliland did not recognize the results of the SNRC.

Presidential elections in Somaliland were held in April 2003 with the participation of three political parties: the Democratic United Peoples’ Movement (UDUB), the Solidarity Party (Kulmiye), and the Party for Justice and Democracy. The incumbent UDUB President, Dahir Riyale Kahin, won the election by a small margin of only 80 votes. Kulmiye initially disputed the results; however, it was resolved through mediation by traditional elders. Unofficial diplomatic observers considered the elections credible and sufficiently transparent. Parliamentary elections, which had been repeatedly postponed, were held in September. There were 246 candidates running for 82 parliament seats. Once inaugurated, the parliament will be an elected rather than appointed body.

In Somaliland there is a constitution and bicameral parliament with proportional clan representation, and an elected president and vice president. The Hargeisa authorities have established functioning administrative institutions in virtually all of the territory they claim, which equaled the boundaries of the Somaliland state that achieved international recognition briefly in 1960 before entering into a union with

the country. In 2001 a referendum was held with 97 percent of voters supporting Somaliland independence.

In 1998 Puntland declared itself a regional government during a consultative conference with delegates from six regions, including traditional community elders, the leadership of political organizations, members of legislative assemblies, regional administrators, and civil society representatives. Representatives of Puntland-based subclans chose Abdullahi Yusuf as president. Puntland has a single chamber quasi-legislative branch known as the Council of Elders, which played a largely consultative role. Political parties were banned in Puntland. Regional elections in Puntland were held during 2001; however, President Yusuf refused to step down. In November 2001 elders elected Jama Ali Jama as the new President of Puntland, and he assumed power in Garowe. Yusuf refused to accept the decision and militarily seized Garowe, which forced Jama to flee to Bosasso. In 2002 Yusuf occupied Bosasso and declared himself president of Puntland. During 2003 General Adde Musse, a former army general, organized Jama Ali Jama's militiamen, drawn primarily from the Majerten Osman Mohamoud subclan, and established a base in Somaliland. General Musse's forces attacked Puntland twice from their base in Somaliland without success. Puntland traditional elders then intervened and brokered a peace agreement between Musse and Yusuf, which was signed in May 2003. In May 2003 the two joined their forces and began sharing power. Mohammed Abdi Hashi, Yusuf's vice president, assumed the presidency of Puntland after Yusuf's election in October 2004 as TFG president.

Somaliland and Puntland continued to contest the Sanaag and Sool regions and the Buhodle district during the year (see section 1.a.). Both governments maintained elements of their administrators at the Sanaag and Sool regions, and both governments exerted influence in various communities.

There were 22 women in the 275-seat TFA, and 1 female minister and 4 female deputy ministers in the TFG. However, the number of women in parliament did not fulfill the legal requirement that at least 12 percent of the 275-member parliament be reserved for women. A woman, Fowiza Mohamed Sheikh was appointed cabinet minister for Gender and Family Affairs in the TFG. A woman held the post of Foreign Minister in the Somaliland cabinet, and two women were elected to the lower house of parliament; in addition, several women were important behind-the-scenes figures in the various factions. There were 5 women in the 69-seat Puntland council of elders.

There were 31 members of the minority Bantu or Arab ethnic groups in the 275-seat TFA, and 4 in the TFG Cabinet. The Somaliland parliament and cabinet had no members of minority groups.

Government Corruption and Transparency.—Official corruption was endemic throughout the country, and there were no laws that provided for public access to government information.

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 official restriction, investigating and publishing their findings on human rights cases. Authorities were somewhat cooperative and responsive to their views.

Several local human rights groups were active during the year, including the Mogadishu-based DIJHRC, Isha Baidoa Human Rights Organization in Bay and Bakol regions, and KISIMA in Kismayu. The DIJHRC investigated the continuing causes of conflict in the Mogadishu area, conducted effective human rights monitoring, protested the treatment of prisoners before the Islamic Shari'a courts, and organized periodic demonstrations for peace. KISIMA monitored human rights and organized peace marches in Kismayu. The Mogadishu-based Somali Journalists Network monitored human rights violations against journalists in Mogadishu. The Mogadishu-based Center for Research and Dialogue, women's NGOs, and other members of civil society also played an important role in galvanizing support in the country for the reconciliation talks in Kenya and in efforts to secure Mogadishu for the TFG.

On March 1, the TFG Ministry of Environment and Disaster Management sent a letter to the NGO Consortium, an umbrella group of international nongovernmental organizations involved in relief and development work in the country, to request that all contract work with local NGOs be routed through the ministry. Critics contended that the policy intended to place local civil society groups and NGOs under restrictive government regulations and had the potential to compromise the independence and capacity of civil society organizations in the country. The letter specifically stated that, "each Ministry has the responsibility to overtake its mandated duties that is (sic) currently exercised by local NGOs and issue license for

those competent NGOs. Hence, no local NGO has a full right to implement any project regarding our ministry's duties unless licensed and registered by our concerned office. Those competent local NGOs will cooperate with the Ministry according to the rules and regulations." The NGO Consortium Secretariat responded on behalf of its constituency on May 10, asking only that the ministry provide the referenced "rules and regulations", since none had yet been promulgated. There was no further communication from the ministry, and there has been no known attempt to enforce the licensing requirement at year's end.

Security problems complicated the work of local and international organizations, especially in the south. There were reported incidents of harassment against NGOs, resulting in at least three deaths. In April there were two separate attacks on international aid agencies that claimed the life of one Somali national and injured three, including a foreign nun. In July assailants broke into the home of peace activist and NGO worker Abdulqadir Yahya Ali who they subsequently shot and killed. In recent years UN staff or consultants were kidnapped, often for use as leverage by ethnic Somali former UN workers dismissed by the organization and seeking compensation. Most hostages were released unharmed after mediation by clan elders. The UNIE reported that four lawyers and human rights defenders were detained in Somaliland. They were later released.

Attacks on NGOs also disrupted flights and food distribution during the year. On July 27, gunmen seized the MV Semlow with 10 crewmembers from Kenya, Tanzania, and Sri Lanka, plus 850 tons of food aid sent by the WFP for 28 thousand tsunami survivors. In July the WFP suspended all shipments of humanitarian assistance to the country. An International Maritime Organization report listed the country's coast as one of the most dangerous areas for piracy. In October the 10 crewmembers were released and most of the food aid was intact, according to press reports. The release reportedly was orchestrated through a deal between the gunmen and a local businessman.

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

The unimplemented TFC prohibits discrimination on the basis of gender and national origin; however, societal discrimination and violence against women and widespread abuse of children continued to be serious problems. The Somaliland Constitution prohibits discrimination on the basis of gender and national origin; however, these rights were not respected in practice.

Women.—Domestic violence against women was a serious problem. There are no laws that specifically address domestic violence; however, both Shari'a and customary law address the resolution of family disputes (see section 1.e.). Women suffered disproportionately in the civil war and in the strife that followed. There was no information available on the prevalence of domestic violence in the country. Sexual violence in the home was reportedly a serious problem, linked to general gender discrimination. UNHCR reported that in refugee camps husbands frustrated by losing their traditional role as provider sometimes abused their wives.

Laws prohibiting rape exist; however, they generally were not enforced. There were no laws against spousal rape. There were no reports that rape cases were prosecuted during the year. NGOs documented patterns of rape of women with impunity, particularly those who have been displaced from their homes due to civil wars or were members of the minority clans. Police and militia members raped women, and rape was commonly practiced in inter-clan conflicts. Traditional approaches to dealing with rape tend to ignore the victim's situation and instead communalize the abuse by negotiating with members of the perpetrator's clan. Victims sustained subsequent discrimination based on attributions of "impurity." There were reports of rapes of Somali women and girls in refugee camps in Kenya during the year (see section 1.c.). Women and girls in displaced persons camps were also especially vulnerable to sexual violence, contributing to the spread of HIV/AIDS.

In Somaliland there was an increase in incidents of gang rape in urban areas, primarily by youth gangs, members of police forces and male students. Many of these cases occurred in poorer neighborhoods and among immigrants, refugee returnees, and rural displaced populations. Many cases were not reported.

The practice of FGM is widespread throughout the country. There were estimates that approximately 98 percent of women have undergone FGM. The majority of women were subjected to infibulation, the most severe form of FGM. In Somaliland FGM was illegal; however, the law was not enforced. In Puntland legislation prohibited FGM in northeastern areas of the country; however, in practice the law was not effectively enforced. UN agencies and NGOs have made intensive efforts to educate persons about the danger of FGM; however, no reliable statistics were available on the success of their programs.

Prostitution is illegal; however, it was practiced. Because it is culturally proscribed, it was not reported, and there were no statistics on its prevalence.

Women do not have the same rights as men and were subordinated systematically in the country's overwhelmingly patriarchal culture. Polygyny was permitted, but polyandry was not. Under laws issued by the former government, female children could inherit property, but only half of the amount to which their brothers were entitled. Similarly, according to the Shari'a and local tradition of blood compensation, those found guilty in the death of a woman must pay only half as much to the aggrieved family as for a male victim. As a predominantly Muslim society, many women wore traditional religious dress.

Several women's groups in Mogadishu, Hargeisa (Somaliland), Bossaso (Puntland), and Merka (Lower Shabelle) actively promoted equal rights for women and advocated the inclusion of women in responsible government positions. The UNIE noted an improvement in recent years in the profile and political participation of women in the country.

Women's groups were active in efforts to secure Mogadishu for the TFG.

Children.—The authorities were generally not committed to children's rights and welfare.

The lack of resources limited the opportunity for children to attend school. Approximately 22 percent of the school-aged population attended school, according to UNICEF officials. Disproportionately more boys than girls were enrolled in school. Overall enrollment rates have been on the rise in recent years with considerable regional variability. Since collapsing in 1991 education services have been revived in various forms: a traditional system of Koranic schools; a public primary and secondary school system financed by communities, foreign donors and the administrations in Somaliland and Puntland; a system of Islamic charity-run schools; and a system of privately-run primary schools, secondary schools, universities, and numerous vocational training institutes. There were three secondary schools in Somaliland and several secondary schools in Mogadishu; however, only 10 percent of those few children who entered primary school graduated from secondary school. Schools at all levels lacked textbooks, laboratory equipment, and running water. Teachers were trained poorly and paid poorly. The literacy rate was estimated at 25 percent throughout the country; however, reliable statistics did not exist. There was a continued influx of foreign Muslim teachers into the country to teach in private Koranic and Madrassa schools. These schools were inexpensive and provided basic education; however, there were reports that these schools required the veiling of small girls and other conservative Islamic practices normally not found in the local culture. In south-central regions of the country, over 100 thousand children were enrolled in educational establishments funded by Islamic charities.

Medical care was rudimentary, and only a small percentage of children had access to adequate medical facilities. There was a chronic lack of qualified health professionals, weak management of health services, inadequate resources and infrastructure to finance a public health system, an urban bias in health provision and a weak drug certification regime.

There was no information available on the prevalence of child abuse in the country; however, it was a problem. There were reports of rapes of Somali girls in refugee camps in Kenya during the year (see section 2.d.). UNHCR reported that children at refugee camps were victims of rape, sodomy, early/forced marriages, and unwanted pregnancies (see section 1.d.). A 2003 UNICEF report noted that nearly a third of all displaced children reported rape as a problem within their family, compared to 17 percent of children in the general population.

FGM was performed on approximately 98 percent of girls (see section 5, Women).

Children remained among the chief victims of the continuing violence. Boys as young as 14 or 15 years of age have participated in militia attacks, and many youths were members of the marauding gangs known as "morian" (parasites or maggots). This year's annual report of the Secretary-General on children and armed conflict documented grave violations against children in Somalia. The report focused violations that are being systematically committed against children in Somalia: killing or maiming of children; the recruitment or use of child soldiers; attacks against schools or hospitals; rape or other grave sexual violence against children; abduction of children; and denial of humanitarian access for children.

The Somaliland Republic constitution contains no minimum age of recruitment into the armed forces. There were no reports of minors under-18 in its forces, and the authorities generally accepted that recruits should not be under 20-years-old, but an inadequate system of birth registration made it difficult to establish the age of recruits.

During the year the UNIE conducted his fourth annual fact-finding mission, which raised the issue of *asi walid*, a custom whereby parents place their children

in prison for disciplinary purposes and without any legal procedure. Many of these juveniles were incarcerated with adults (see section 1.c.).

Child prostitution was practiced; however, because it is culturally proscribed and was not reported, there are no statistics on its prevalence.

Trafficking in children for forced labor was a serious problem (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

Trafficking in Persons.—The pre-1991 law prohibits trafficking; however, there were reports of trafficking during the year. The unimplemented TFC does not specifically prohibit trafficking. Puntland was noted by human rights organizations as an entry point for trafficking. The UNIE reported that trafficking in persons remained rampant in Somalia and that the lack of an authority to police the country's long coastline contributed to trafficking. Various forms of trafficking are prohibited under the most widespread interpretations of Shari'a and customary law, but there was no unified policing in the territory to interdict these practices, nor any authoritative legal system within which traffickers could be prosecuted.

Trafficking in children for forced labor was a serious problem. There were reports of a significant increase in the trafficking of children out of the country to relatives and friends in western countries where they worked or collected welfare and sent money back to family members in the country.

The country was a source and destination for trafficked women and children. Armed militias reportedly trafficked Somali women and children for sexual exploitation and forced labor. Some victims were trafficked to the Middle East and Europe for forced labor or sexual exploitation. Trafficking networks also were reported to be involved in transporting child victims to South Africa for sexual exploitation.

Authorities within Somaliland and Puntland have expressed a commitment to address trafficking, but corruption and a lack of resources prevented the development of effective policies. Many of these individuals were known to condone human trafficking. In the absence of effective systems of revenue generation, no resources were devoted to preventing trafficking or to victim protection across the majority of the country. Government officials were not trained to identify or assist trafficking victims. NGOs worked with IDPs, some of whom were possibly trafficking victims.

Persons with Disabilities.—In the absence of a functioning state, the needs of persons with disabilities were not addressed. There were several local NGOs in Somaliland that provided services for persons with disabilities. Associations of disabled persons reported numerous cases of discrimination to the UNIE.

There was widespread abuse of persons with mental illness, and it was common to chain such persons to a tree or within their homes for up to seven years.

National/Racial/Ethnic Minorities.—More than 85 percent of citizens shared a common ethnic heritage, religion, and nomadic-influenced culture. In most areas, members of groups other than the predominant clan were excluded from effective participation in governing institutions and were subject to discrimination in employment, judicial proceedings, and access to public services.

Minority groups and low-caste clans included the Bantu (the largest minority group), the Benadiri, Rer Hamar, Brawanese, Swahili, Tumul, Yibir, Yaxar, Madhiban, Hawrarsame, Muse Dheryo, and Faqayaqub. The UNIE estimated that minority groups living in the country might constitute up to one-third of the population, approximately two million persons. Inter-marriage between these groups and mainstream clans was restricted. Some of these groups had limited access to whatever social services were available, including health and education. Minority groups had no armed militias and continued to be subjected to killings, torture, rapes, kidnappings for ransom, and looting of land and property with impunity by faction militias and clan members. These groups continued to live in conditions of great poverty and to suffer numerous forms of discrimination and exclusion.

On June 6, a member of a minority clan was killed when a local militia placed explosives on the side of his house while he was sleeping, in an effort to seize his farmland.

The UNIE expressed concern that members of minority clans were excluded from the Somali National Reconciliation Process and from the Transitional Federal parliament and government.

Section 6. Worker Rights

a. The Right of Association.—The 1990 constitution and the unimplemented TFC provide workers with the right to form unions; however, the civil war and factional fighting have resulted in the absence of any legal protection for workers' rights and the disintegration of the country's single labor confederation, the then government-controlled General Federation of Somali Trade Unions. In view of the extent of the

country's political and economic breakdown and the lack of legal enforcement mechanisms, trade unions did not function freely.

The unimplemented TFC, the Puntland Charter, and the Somaliland Constitution establish the right of freedom of association, but no unions or employer organizations existed.

b. The Right to Organize and Bargain Collectively.—Wages and work requirements in the traditional culture were established largely by ad hoc bartering based on supply, demand, and the influence of the worker's clan. In June there were private strikes by private transportation groups in protest of higher fuel costs. Also in June, a number of Puntland businesses shut down to protest higher taxes. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The pre-1991 Penal Code and the unimplemented TFC prohibit forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.). Local clan militias generally forced members of minority groups to work on banana plantations without compensation. There were reports that in Middle and Lower Juba, including the port of Kismayu, Bantus were used as forced labor.

d. Prohibition of Child Labor and Minimum Age for Employment.—The pre-1991 Labor Code and the unimplemented TFC prohibit child labor; however, child labor was a problem, and there were child soldiers (see section 5). Formal employment of children was rare, but youths commonly were employed in herding, agriculture, and household labor from an early age. Substantial numbers of children worked. From 1999–2003, UNICEF estimated that 32 percent of children, 29 percent of males and 36 percent of females, between the ages of 5 and 14 worked; however, the percentage of children engaged in labor was believed to be even higher during the year. The lack of educational opportunities and severely depressed economic conditions contributed to child labor.

e. Acceptable Conditions of Work.—There was no organized effort by any of the factions or de facto regional administrations to monitor acceptable conditions of work during the year. There is no national minimum wage and with an estimated 43 percent of the population living in extreme poverty with a per capita income of less than \$1 (approximately 1,700 Somali shillings) per day, there was no mechanism to enforce a decent standard of living for a worker and family.

SOUTH AFRICA

South Africa is a multiparty parliamentary democracy in which constitutional power is shared between the president and the parliament. The country has a population of approximately 46.9 million. President Thabo Mbeki led the African National Congress (ANC) party, which increased its seats to 279 in the 400-seat National Assembly after a free and fair national election in April 2004. Parliament, in turn, elected the president. The civilian authorities maintained effective control of the security forces.

The government generally respected the human rights of its citizens. However, the government, nongovernmental organizations (NGOs), and local media reported the following serious human rights problems:

- police use of excessive force against suspects and detainees, which resulted in deaths and injuries.
- vigilante violence and mob justice
- abuse, including beatings and rape, of prisoners and severe overcrowding of prisons
- lengthy delays in trials and prolonged pretrial detention
- forcible dispersal of demonstrations
- pervasive violence against women and children and societal discrimination against women and persons with disabilities
- trafficking in persons
- violence resulting from racism, xenophobia, and ethnic tensions
- child labor, including forced child labor related to child 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 politically motivated killings by the government or its agents; however, police use of lethal force during apprehensions resulted in a significant number of deaths, and deaths in police custody were a problem. The government investigated and punished some abusers.

According to the governmental Independent Complaints Directorate (ICD), there were 366 deaths as a result of police action during the year and 286 deaths in police custody between April 1, 2004, and March 31; 170 of the 286 resulted from suicide or natural causes.

On October 17, the court convicted Witdraai Constable Sebastian van Wyk of killing a Khomani San civilian in 2004; Inspector Johannes Liebenberg was acquitted of the same charge.

A formal inquest during the year concluded that no one was liable for the January 2004 police killing of a civilian fleeing the scene of a crime.

Political violence between ANC and Inkatha Freedom Party (IFP) supporters in KwaZulu-Natal resulted in deaths during the year. On March 2, unknown assailants shot and killed Zulu Royal Prince Thulani Zulu, chairman of the ANC's Nongoma branch in KwaZulu-Natal. Three persons were arrested and released after questioning. An investigation was ongoing at year's end.

On May 10, a campaigning IFP member was killed while campaigning in the party's by-election. The IFP charged that the killing was politically motivated because the victim was hanging party posters when he was shot; however, no additional evidence was uncovered to support the charge. No arrests had been made by year's end.

During the year at least 13 persons in Kwa-Zulu-Natal were killed in taxi violence, which resulted from the rivalry between taxi associations for lucrative routes. Politicians and police officers owned taxis companies in some areas and were allegedly involved in the violence. Taxi associations also charged that the government provided preferential treatment to taxi associations that supported certain politicians. Local residents reportedly were reluctant to provide information or testimony about such violence to police because of their suspected involvement; therefore, many cases remained unsolved.

There were no developments in the December 2004 attacks on members of a taxi association by unknown assailants.

On November 28, the appeal hearing began of right-wing Afrikaners Leon Peacock, Hercules Viljoen, and Alan Rautenback, who plotted to blow up the Vaal Dam in 2001 and were convicted in 2003 of sabotage.

Incidents of vigilante action and mob justice continued, particularly in Gauteng, the Western Cape, and KwaZulu-Natal. The 2004–05 ICD Report recorded a 184 percent increase in vigilantism over the previous year. On January 11, a mob in Pretoria attacked 2 Angolan men for allegedly raping a 17-year-old girl; 1 of the Angolans was beaten to death, and the other was critically injured. On April 30, in Port Elizabeth, a mob beat to death Desmond Zothe after he allegedly hit a pedestrian with his car. On May 1, a mob in the Barcelona informal settlement beat a man to death for allegedly stealing a bicycle.

The trial continued of 14 persons charged with kidnapping and murder for allegedly attacking 2 men accused of murder in May 2004.

Unlike in previous years, there were no reports of killings by Mapogo A Mathamaga, a vigilante group with more than 90 branches and 50 thousand members throughout the country. Mapogo targeted persons suspected of property crimes against their members, tortured suspected criminals, and beat persons with clubs and whips.

On February 24, after the only surviving witness disappeared, the public prosecutor withdrew murder charges against Bertrams Pringle, Willie Skhosana, and Mapogo member Robert Van der Colff, who in 2002 had beaten to death Adam Potgieter and Samuel Moletsane for allegedly stealing construction equipment.

Unlike in previous years, there were no reports of killings by People Against Gangsterism and Drugs (PAGAD), an anticrime group with an antigovernment bias. One ongoing court case remained from the numerous cases involving the group. On March 7, the Cape high court acquitted Moegamat Isaacs, Nasrodien Gamielden, Achmat Abrams, Loegmaan Sapat, and Gabiebodien Burton of murdering three drug dealers in 1999; however, the five remained in prison serving sentences for other PAGAD-related crimes. In March the court sentenced PAGAD member Shaheem "Doc" Ismail to 12 years in prison for the attempted killing of a Cape Town magistrate. PAGAD leader Salie Abader's suit against authorities for "wrong-

ful arrest and malicious prosecution” following his acquittal in 2002 for a killing had not concluded by year’s end.

There continued to be reports that xenophobia led to a number of violent attacks on foreigners (see section 5).

Killings and other violent crimes against farmers and, on occasion, their families continued in rural areas. Despite concern among white farmers that they were targeted for racial and political reasons, studies indicated that the perpetrators generally were common criminals motivated by financial gain. According to Agriculture South Africa (AgriSA), there were 652 farm attacks and 86 farm killings by the end of October 2004. There were 82 killings and 694 incidents of violence against the farming community, according to the 2004–05 SAPS report. Security forces generally lacked the capability to prevent such activities.

On April 25, farm owner Mark Scott Crossley and farm workers Richard Mathebula and Simon Mathebula were found guilty of the 2004 killing of a former farm laborer, who they tossed into a lion enclosure.

On October 17, Jewell Crossberg appeared in high court in connection with his alleged June 2004 killing of a farm worker; however, the case was postponed until April 2006 for further investigation. Crossberg had told police that he had mistaken his victim for a baboon, but farmworkers who witnessed the shooting said the killing was triggered by the victim’s failure to report to work the day before.

In Limpopo Province, where traditional beliefs regarding witchcraft remained strong, there were occasional reports of attacks on persons accused of witchcraft (see section 1.f.). Traditional leaders cooperated with government programs and reported threats against persons suspected of witchcraft. In April a man from Dan Village in Rityavi, Limpopo, killed his grandmother with an ax after accusing her of bewitching him; the man was charged with murder. On May 11, the court sentenced a man to life imprisonment for the 2004 killing of four elderly women accused of witchcraft in Nontshinga Village in the Eastern Cape. The trial of those accused of the 2003 killing of a man suspected of witchcraft in KwaZulu-Natal was ongoing at year’s end.

Muti killings—killing, especially of children, to obtain body parts for traditional healing—continued. In February charges were dropped against a businessman and a traditional healer for allegedly hacking off a young boy’s hand, ear, and genitals in 2004; the boy died 10 days later. An inquest into the incident was ongoing at year’s end. SAPS estimated that 150 to 300 such killings occurred each year.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, some police officers beat, raped, tortured, and otherwise abused suspects. Police torture and abuse occurred during interrogation, arrest, detention, and searches of persons’ homes.

Police forcibly dispersed demonstrators, resulting in numerous injuries (see section 2.b.).

Incidents of police harassment against foreigners continued, particularly during coordinated police raids of areas where foreign nationals resided. Some state hospitals reportedly routinely refused emergency treatment to indigent foreigners despite regulations that required such treatment.

The press reported that many refugee seekers claimed that immigration personnel whipped, beat, and subjected them to other brutal treatment. Despite promises by the Minister of Home Affairs to investigate such claims, no investigations had begun by year’s end. No information was available on the case of four soldiers arrested in 2004 on allegations of ambushing, stripping, raping, and robbing illegal Zimbabwean immigrants.

Unlike in the previous year, there were no reports that police abused homosexuals; however, gay and lesbian rights NGOS alleged that such incidents were still occurring.

During the year SANDF troops stationed in the Democratic Republic of the Congo (DRC) as part of the UN peacekeeping mission were accused of sexual misconduct towards women and girls. According to UN statistics, 30 of the 95 accusations of sexual misconduct made against UN peacekeepers in the DRC involved members of the SANDF; 8 of the allegations were substantiated, and the responsible soldiers were returned to the country. The government reportedly had a “zero tolerance policy” for human rights abuses perpetrated by SANDF members.

Vigilante action and mob justice resulted in attacks on suspected criminals, some of whom were killed (see section 1.a.). Acts of violence against suspected witches also were a problem (see section 1.a.).

There were incidents in which white employers abused their black South African farm laborers (see section 1.a.). NGOs claimed that rural police and courts refused to arrest or prosecute whites in many cases.

Prison and Detention Center Conditions.—Most prisons did not meet international standards, and prison conditions did not always meet the country's minimum legal requirements. The country had 240 prisons with a capacity of 114 thousand prisoners; however, there were 189,748 prisoners in custody, according to the Governmental Judicial Inspectorate of Prisons. Prisons were overcrowded and understaffed, according to the Police and Prisons Civil Rights Union. Severe overcrowding in some prisons led to poor health, with as many as 75 inmates occupying a cell designed to hold 40 inmates.

According to the Judicial Inspectorate Report, there were 1,758 prison deaths in 2004, 1,689 of which resulted from natural causes, including HIV/AIDS. In June Correctional Services Minister Ngconde Balfour stated that 8 thousand prisoners were HIV positive and that only 195 were receiving treatment with anti-retroviral (ARV) therapy. In partnership with a foreign government, Correctional Services conducted programs to prevent HIV/AIDS, care for victims, and to treat some patients with the disease.

Prison employees and other prisoners abused and assaulted prisoners physically and sexually. Detainees awaiting trial reportedly contracted HIV/AIDS through rape. The Institute for Security Studies (ISS) reported in 2003 that some inmates intentionally infected other inmates with HIV/AIDS to control or punish them in a process called "slow poison."

Official corruption was a problem. There were reports that prison employees stole food and money from prisoners. According to NGOs, prisoners used drugs provided to them illegally by guards or other prisoners. In many cases offending police or correctional officers were suspended or expelled from their services for corruption. On March 2, Correctional Services Minister Balfour announced that since 2002, 132 officials had been referred for criminal prosecution related to corruption in prison, of whom 105 were convicted. Two of those convicted were dismissed, and 95 were given final warnings.

The Jali Commission completed its investigation into allegations of corruption and sexual abuse in prisons, but its final report had not been released by year's end. The commission has reported widespread irregularities involving prisoners leaving the premises illegally, nepotism, drug trafficking, irregular appointments of personnel, extortion, abuse of parole procedure, abuse of disciplinary inquiries and appeal procedures, educational qualifications fraud, and massive medical aid fraud.

Human rights groups continued to raise serious concerns regarding C-MAX prisons, which were designed to hold the country's most dangerous criminals. Concerns included the government's criteria for transferring prisoners from other prisons to a C-MAX facility and the restrictive, solitary conditions of the prisons.

There were allegations of corruption and abuse of detainees at the overcrowded Lindela Repatriation Center, the country's largest detention facility for undocumented immigrants. On October 28, the Department of Home Affairs released an inquiry into the deaths of two immigrants at Lindela in July. The inquiry found that the deaths resulted from meningitis and could have been prevented had proper medical care been available. In a separate inquiry, three officials from home affairs, including a deputy director general, were briefly suspended for mismanagement of the Lindela facility. However, on a December 7 visit to the facility, the regional representative of the UN High Commissioner for Refugees (UNHCR) noted improvements for women and children and characterized sanitary conditions and medical facilities as "good."

Although the government operated 13 youth detention facilities, juveniles sometimes were held with adults. There were credible reports that these youths were vulnerable to sexual exploitation, including rape.

Pretrial detainees generally were held with convicted prisoners. The government generally permitted independent monitoring of prison conditions, including visits by human rights organizations. According to a November 14 study by the Institute for Security Studies, groups like Lawyers for Human Rights, the South Africa Human Rights Commission, and faith-based groups like Khulisa were granted extensive access to prisoners and were allowed to conduct various programs. Unlike in previous years, there were no reports that organizations sometimes were told that only lawyers were able to visit prisoners or that certain groups were routinely denied access. The Judicial Inspectorate visited all prisons regularly.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions; however, prolonged

pretrial detention was a problem, and police arbitrarily arrested demonstrators (see section 2.b.).

Role of the Police and Security Apparatus.—The South African Police Service (SAPS), under the Department of Safety and Security, has primary responsibility for internal security. The SANDF, under the Department of Defense, is responsible for external security but also has domestic security responsibilities. The National Prosecuting Authority's (NPA) Directorate of Special Operations, the "Scorpions," coordinates efforts against organized crime and corruption.

SAPS continued its major restructuring and transformation from a primarily public order security force to a more accountable, community service-oriented police force; however, it remained ill-equipped, overworked, and poorly trained. According to the 2004–05 SAPS annual report, there were 115,595 police officers and 33,375 civilians working in SAPS. The majority of police resources remained focused on wealthy residential and business areas.

SAPS continued to create partnerships between local police forces and the communities they served. Municipalities also maintained metropolitan police forces in major cities under local control, such as in Johannesburg, Durban, Pretoria, and Cape Town. SAPS continued to have deficiencies in mid-level leadership and institutional memory that damaged its overall performance.

During the year the ICD received 1,731 allegations of criminal offenses committed by police and 3,407 complaints of misconduct.

Broad efforts to reform police practices continued, and the ICD investigated reports of police misconduct and corruption; however, reports of killings and misconduct decreased, while reports of criminal offenses increased. The government made efforts to address abuses with an official anti-torture policy and training programs for police and SANDF officers that included human rights.

Arrest and Detention.—The law requires arrest warrants in most cases and provides that every detainee be informed promptly of the reasons for detention. Detainees must be advised promptly of their right to remain silent and the consequences of waiving that right. Detainees must be charged within 48 hours of arrest, held in conditions of human dignity, allowed to consult with legal counsel at every stage, and permitted to communicate with relatives, medical practitioners, and religious counselors. Courts and police generally respected most of these rights; however, there continued to be problems with prison conditions and prolonged pretrial detention. Detainees must be released (with or without bail) unless the interests of justice require otherwise; however, bail for pretrial detainees often exceeded what suspects could pay. An estimated 10 to 15 thousand prisoners remained in detention because they were unable to pay bail. Some school children spent more than a year in detention because their families were unable to afford to pay bail.

Human rights groups, judges, and judicial scholars continued to express concern about the Criminal Procedure Second Amendment Act, which mandates minimum jail sentences and prohibits bail in certain cases.

There were no reports of political detainees.

Minister of Justice Mabandla reported in July that the backlog of court cases increased 13.2 percent over the previous year in district courts, 6.2 percent in regional courts, and 10.4 percent in high courts. As of January 31, 52,326 of the country's 187,446 prisoners were awaiting trial. According to the ISS, prisoners waited an average of three months, but some as long as two years, for a trial. This problem was primarily due to an understaffed, underfunded, and overburdened judiciary (see section 1.e.).

Amnesty.—Between June and August, the Department of Correctional Services reduced the sentences of 10 thousand prisoners by 6 months to ease prison overcrowding. The sentence reduction only applied to prisoners convicted of non-violent crimes and excluded persons who committed sexual crimes such as rape, incest, and child pornography.

The National Director of Public Prosecution continued to prepare cases against persons who were denied amnesty, failed to apply for amnesty, or were implicated in human rights abuses during the Truth and Reconciliation Commission (TRC) process. In the first case, charges were brought against Gideon Nieuwoudt (who died during the year of natural causes), Johannes van Zyl, and Johannes Koole for the Pebco Three killing in 1985; however, the case was postponed.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and while the judiciary was generally independent, it was understaffed, underfunded, and overburdened.

The constitutional court is the highest court for interpreting and deciding constitutional issues, while the Supreme Court of Appeal is the highest court for interpreting and deciding other legal matters. The lower courts include magistrates'

courts, divorce courts, small claims courts, and courts of chiefs and headmen. Magistrates' courts—including regional and district courts—have civil and criminal jurisdiction. The country also has a range of special courts, including the labor appeals court, labor court, land claims court, special income tax courts, special (consumer) court, sexual offences court, and the electoral court.

Trial Procedures.—The bill of rights provides for due process, including the right to a fair, public trial within a reasonable time after being charged, and the right to appeal to a higher court. It also gives detainees the right to state-funded legal counsel when “substantial injustice would otherwise result”; however, a general lack of information for accused persons regarding their rights to legal representation and the government’s inability to pay for these services remained problems.

There is a presumption of innocence for criminal defendants. Judges and magistrates hear criminal cases and determine guilt or innocence. The law requires that a panel of lay assessors and a magistrate hear cases involving murder, rape, robbery, indecent assault, and assault leading to serious bodily harm. The two assessors may overrule magistrates on questions of fact. Magistrates also can use assessors in an advisory capacity in bail applications and sentencing.

The government operated 46 justice centers in the country, composed of the Departments of Justice, Correctional Services, Welfare and Health, and SAPS, to speed the administration of justice, reduce the court rolls, and alleviate overcrowding in prisons. However, serious backlogs in the numbers of cases that have gone to trial remained.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, there were allegations of police abuse during sweeps and home searches and other criticisms against government legislation and practice.

In October National Intelligence Agency Director General Masetlha, Deputy Director General Njenje, and General Manager Mhlanga were suspended for conducting surveillance on Saki Macozoma, a political ally of President Mbeki. Njenje subsequently resigned.

The Regulations of Interception and Provision of the Communication-Related Information Bill, which provides for state monitoring of all telecommunications systems for criminal investigations, including cell phones, the Internet, and e-mail had not been implemented by year’s end.

The Promotion of Access to Information Act is intended to assist authorities in obtaining personal information and is used solely in criminal investigations; however, opposition parties and human rights NGOs objected to its broadly defined provision that enabled the government to access an individual’s personal information.

Farmers continued to evict workers legally and illegally. During the year the Land Claims Court rejected 25 percent of the 645 eviction orders it reviewed. The law requires that evictions be approved by a court; however, less than 1 percent of evictions involved a legal process. Many farmworkers were unaware of their right to legal counsel during eviction proceedings, according to an study released in October by the Nkuzi Development Association.

There were reports that persons accused of witchcraft were attacked and driven from their villages in rural communities (see section 1.a.). In February approximately 90 youths burned 39 houses in 4 villages in Limpopo, accusing the occupants of being witches. Thirteen suspected ringleaders were arrested and charged with public violence and arson; their trial was expected to resume in March 2006. Some survivors of attacks and their families took refuge in “witch villages,” which had no running water or electricity, in Limpopo Province.

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. Several apartheid-era laws that remained in force posed a potential threat to media independence.

The independent media was active and expressed a wide variety of views, although some journalists expressed concern that the government heavily influenced the media.

Print media reached approximately 20 percent of the population. Due to socio-economic and demographic circumstances, the majority of the population received news through radio broadcasts from the government-owned South African Broadcasting Corporation (SABC) and community radio stations.

The SABC, which was managed by black South African executives and provided broadcasting in the country’s main African languages, continued to own and control the majority of the television and radio outlets. SABC provided news coverage of the

government and the leading opposition parties; however, media commentators and opposition politicians continued to criticize SABC for allegedly showing partiality in its coverage of government ministers or events.

Low-power, not-for-profit community radio stations continued to play an important role in informing the mostly rural public; however, they often had difficulty producing adequate content and maintaining staff. Government broadcast regulators regularly issued new community radio licenses and also withdrew a few for non-compliance with the terms of issuance. The cases of two radio stations that were refused licenses in 2004, Alex Radio and Radio Pretoria, were pending at year's end.

The only independent television station, e.tv, reached 78 percent of the population. Satellite programming was also available.

Police injured journalists covering a strike (see section 6.b.).

High-ranking government officials on occasion reacted sharply to media criticism and accused black South African journalists of disloyalty and white journalists of racism. Some journalists believed that the government's sensitivity to criticism caused self-censorship in the media.

On May 26, the Johannesburg high court blocked the liberal weekly *Mail and Guardian* from publishing a follow-up article regarding a scandal involving alleged misappropriation of public funds. On June 7, the judge lifted the order because the article had been discussed openly in parliament, making the case moot.

Several laws remained in effect that permitted the government to restrict the publication of information about the police, the national defense forces, prisons, and mental institutions. While these laws rarely were used, journalists considered them a threat to constitutional rights. There were no instances in which these laws were invoked during the year.

The Foreign Publication Board reviewed written and graphic materials published in or imported into the country. The board had the power to edit or ban books, magazines, movies, and videos, and it regularly exercised that power, mostly regarding pornographic material.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, police forcibly dispersed numerous demonstrators during the year, which resulted in injuries and one death.

On May 25, in Cape Town, police used tear gas and stun grenades to disperse protesters demanding better housing. There were no reported injuries, but 36 persons were arrested and briefly detained. On May 30, in Ocean View, police arrested and briefly detained another 12 persons dispersing a demonstration with tear gas and stun grenades.

On July 12, police used rubber bullets and teargas to disperse a peaceful demonstration against the local hospital's slow provision of ARV therapy; 40 persons were injured, and 10 were treated for gunshot wounds.

During the year three police officers were arrested and charged with murder in the September 2004 killing of a demonstrator in Johannesburg. The trial was ongoing at year's end.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right.

c. Freedom of Religion.—The law provides for freedom of religion; the government generally respected this right.

Societal Abuses and Discrimination.—While there were occasional reports of desecration and vandalism or verbal or written harassment, no violent incidents were reported during the year.

There were approximately 90 thousand Jews in the country, and there were no reports of anti-Semitic acts during the year.

For a more detailed discussion, see the *2005 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.

The law does not prohibit forced exile; however, the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, and the government has established a system for providing protection to refugees. The law also provides for a broader definition of refugee status to be granted if a person satisfies the definition in the 1969 Organization of African Union's Convention on Governing the Specific Aspects of Refugee Problems in

Africa. In practice, the government provided protection against *refoulement*, the forcible return of persons to a country where they feared persecution, and granted refugee status and asylum.

The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. According to incomplete statistics provided by the Department of Home Affairs, the government received 32,558 asylum applications during the year. Asylum seekers faced long delays in the processing of their claims. According to Human Rights Watch (HRW), the government admitted in November to a backlog of approximately 80 thousand to 115 thousand asylum requests. As of September, the government had granted refugee status to 27,683 persons. The majority of recognized refugees came from the DRC, Angola, Zimbabwe, and Somalia; there also were refugees from Rwanda, Burundi, and the Republic of the Congo.

Lawyers for Human Rights, a local NGO, criticized the Department of Home Affairs for not following the provisions of the Immigration Act and the Refugee Act. There were reports that police and immigration officials abused refugees and asylum seekers and that asylum seekers were repatriated immediately upon arrival at airports without benefit of formal asylum processing. Applicants for asylum and NGOs assisting refugees also reported that immigration authorities requested bribes to process applications for permits to remain in the country. During the year the government dismissed numerous immigration officials for corruption (see section 3).

Despite procedural safeguards, efforts to combat a growing illegal immigration problem occasionally resulted in the government wrongfully deporting illegal aliens, some with potential refugee claims. However, there were no confirmed reports of the forced return of persons to countries where they feared persecution during the year.

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 through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation.—The country held its third national election in April 2004. Although largely peaceful, the election was marred by a few incidents of political violence in KwaZulu-Natal that occurred in the weeks before the election. The IFP registered a number of complaints with the Independent Electoral Commission, including large numbers of special votes, posters being removed or defaced, individuals being threatened because of political affiliation, and other incidents of intimidation. The IFP challenged the legitimacy of the election in KwaZulu-Natal at the electoral court but later withdrew court action and accepted the election results.

Thabo Mbeki was reelected in April 2004 for a second term as president and head of state. Three parties—the African National Congress (ANC), the New National Party (NNP), and the Azanian People's Organization (AZAPO)—shared executive power. ANC members occupied 26 of the 28 ministerial positions and increased their parliamentary strength from 266 seats to 279. The official opposition, the Democratic Alliance, increased its seats from 38 to 50. Twelve political parties were represented in parliament. In August 2004 the NNP announced that it would merge with the ANC but its elected representatives would continue to hold their seats in the national and provincial legislatures as NNP members until September. After the September floor crossing period, the ANC increased its seats to 293. Five new parties were formed, making a total of 16 parties with parliamentary representation.

There continued to be reports of inter-party rivalry and violence during the year (see section 1.a.).

On June 22, President Mbeki named Minister of Minerals and Energy Phumzile Mlambo-Ngcuka as the country's first female deputy president. Women held 12 of 28 ministerial positions and 10 of 21 deputy ministerial slots. There were 131 women in the 400-seat National Assembly (NA) and 21 women in the 54-seat National Council of Provinces (NCOP). In addition women occupied three of four parliamentary presiding officer positions, including speaker and deputy speaker of the NA and chair of the NCOP.

There were approximately 140 members of minorities, i.e. non black South Africans, in the NA. There were approximately 20 minority members among the 54 permanent members of the NCOP. There were 6 members of minorities in the cabinet.

Government Corruption and Transparency.—The government continued its efforts to curb corruption, although the public perception of widespread official corruption, particularly in the police and the Department of Home Affairs, continued. The government's anticorruption actions included ongoing investigations into the alleged misconduct of public officials, which resulted in numerous convictions during the year.

In April 2004 parliament passed the Prevention and Combating of Corrupt Activities Act, which for the first time defines the scope of corrupt activities, as well as complements several existing anticorruption laws. Government anticorruption entities also made significant progress by expanding their operations and working towards greater interagency cooperation. In March the National Anticorruption Forum—a consortium of government, civil society, and business that focused on ways to combat graft—also convened the country's second annual anticorruption summit.

The Office of the Public Protector investigated government abuse and mismanagement and served as the office of last resort for citizens reporting unfair treatment by government entities. The office handled an increasing number of complaints but was hampered by severe resource constraints.

The government continued to prosecute officials involved in "Travelgate," the ongoing scandal involving misuse of official funds by parliamentarians and their travel agents. In March and April seven ANC Members of Parliament (MPs) were fined and given suspended prison sentences in exchange for their guilty pleas. On June 7, 21 MPs, including 18 from the ANC, appeared in court on the same charge of misusing official vouchers; the trial was ongoing at year's end. On May 31, the ANC announced that it would expel from the party, and therefore parliament, any MPs convicted in the scandal; five MPs had lost their seats by year's end.

On June 2, the Durban high court convicted Schabir Shaik, financial advisor to former deputy president Jacob Zuma, of two counts of corruption and one count of fraud, including the payment of bribes to Zuma. On June 14, President Mbeki dismissed Zuma for suspected corruption. On June 20, the NPA arrested and charged the former deputy president for corruption; his trial was scheduled for July 2006.

On July 18, Home Affairs Minister Mapisa-Nqakula announced that 80 ministry officials had been charged with corruption. Between April 2004 and June, at least 66 senior officials from the Department of Home Affairs were dismissed for serious misconduct.

On November 15, Papi Mokoena, the mayor of Mangaung City, and the municipal speaker were suspended after being investigated for fraud and corruption.

The 2000 Promotion of Access to Information Act provides for access to information, and the government generally complied with the act, but there were problems with implementation. A 2003 study indicated that more than two-thirds of requests for information went unanswered or were answered outside the period provided for in the legislation. If a government department refuses to provide information, an internal appeal can be launched. If this also fails, the requestor may appeal a decision to the high court, a time consuming process that excludes groups or individuals who cannot afford it. Results of the study also indicated a bias against media critical of the government. In April the Cape high court ruled that political parties should not be compelled to disclose details of private donations they receive.

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. Many organizations participated in governmental bodies that gathered information and developed policies related to human rights.

The South African Human Rights Commission (SAHRC), which was created by the government but operated independently, was responsible for promoting the observance of fundamental human rights at all levels of government and throughout the general population. The SAHRC also has the power to conduct investigations, issue subpoenas, and hear testimony under oath. During the year the SAHRC issued reports on the treatment of the Khomani San and other human rights issues.

The TRC, created to investigate apartheid-era human rights abuses and compensate victims, released its final report in 2003. Of the 18 thousand victims approved by the TRC for a one-time payment of \$4,600 (R30 thousand), 16 thousand received payment in 2004, and 700 received payment during the year after door-to-door campaigns conducted by the government. Remaining victims who had not received benefits by year's end had either not completed applications correctly or were believed to be dead.

In 2004 the NPA prosecuted former security agents Gideon Nieuwoudt, Johannes "Snake" van Zyl, and Johannes Koole on charges of kidnapping, murder, and assault to do grievous bodily harm in the 1985 killings of the "Pebco Three," Qaquwili Godolozzi, Champion Galela, and Siphon Hashe. The TRC denied amnesty to Nieuwoudt, Van Zyl, Herman Barend du Plessis, and Gerhardus Johannes Lotz for failure to make a full disclosure. The case was postponed to December, pending

the review proceedings of the amnesty re-hearing case, also involving Nieuwoudt. That re-hearing became moot when Nieuwoudt died of natural causes in late August.

During the year Wybrand du Toit and Marthinus Ras were granted amnesty for the so-called Motherwell killings in 1989. Gideon Nieuwoudt, also convicted in connection with the killings, was denied amnesty after his death in August.

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

The law prohibits discrimination on the grounds of race, disability, ethnic or social origin, color, age, culture, language, sex, pregnancy, sexual orientation, or marital status; however, entrenched attitudes and practices, as well as limited resources, restricted the practical effect of these legal protections in some cases. The Promotion of Equality and Prevention of Unfair Discrimination Act places a responsibility on the state and any person in the public domain to promote equality. The act addresses discrimination in a broad context in the workplace, health care, education, services, pensions, and other socio-economic areas.

Women.—Domestic violence was pervasive and included physical, sexual, emotional, and verbal abuse, as well as harassment and stalking of former partners. The law defines victims of domestic violence, facilitates the serving of protection orders on abusers, requires the police to take victims to a place of safety, and allows police to seize firearms at the scene and arrest abusers without a warrant. The law also applies to persons who are not in legal or common-law marriages. Violating a protection order is punishable by a prison sentence of up to 5 years or 20 years if additional criminal charges are brought.

Societal attitudes and a lack of infrastructure, resources, and training for law enforcement officials hampered the implementation of domestic violence legislation. According to NGOs, an estimated 25 percent of women were in abusive relationships, but few reported it. Doctors, police officers, and judges often treated abused women poorly.

The government financed 25 shelters for abused women, but more were needed, particularly in rural areas. During the year SAPS continued to convert Child Protection Units (CPUs) to Family Violence, Child Protection, and Sexual Offenses Units (FCS); by September 15, the number of FCSs had increased from 40 in 2004 to 62. FCS investigating officers and other police officers received annual training in gender sensitivity. The government continued to conduct domestic violence awareness campaigns.

Rape, including spousal rape, is illegal, but remained a very serious problem. According to the 2004–05 SAPS annual report, the incidence of rape increased 4 percent from the previous year to 118.3 rapes per 100 thousand persons. A poor security climate and societal attitudes condoning sexual violence against women contributed to the problem. Amnesty International noted that the number of reported rapes was believed to be only a third of the estimated number of actual rapes. The 2004–05 SAPS reported 55,104 rapes, 30,915 of which were referred to court. Although judges in rape cases generally followed statutory sentencing guidelines, women’s advocacy groups occasionally criticized judges for using questionable criteria such as the victim’s behavior or relationship to the rapist as a basis for imposing lighter sentences.

Rape, sexual assault, and sexual harassment of black South African female farm workers by farm owners, managers, and by other farm workers were common.

The government operated 54 sexual offenses courts throughout the country that included designated waiting rooms and counseling for victims. The Sexual Offenses and Community Affairs Unit (SOCA) operated five centers known as Thuthuzela centers, which specialized in rape care management and streamlined a network of existing investigative, prosecutorial, and medical and psychological services in the hospitals where they were located.

On December 8, Ncedile Ntumbukane was found guilty of raping Lorna Mlofana and beating her to death in 2003 after discovering that she was HIV/AIDS positive. Vuyelwa Dlove, a second man accused in the case, was found guilty of attempted murder.

Exacting a bride price (“*lobola*”) was a traditional practice of some ethnic groups.

Prostitution is illegal but was widespread and practiced openly. In the past police demanded sex from prostitutes in return for not arresting them; however, there were no specific reports of such incidents during the year.

There was no further information on the seven police officers who were arrested in 2004 on charges of corruption and extortion for demanding sex from prostitutes in return for not arresting them; the officers were subsequently released on bail.

There were reports that women were trafficked to the country for prostitution or were trafficked to foreign territories such as China and Macao (see section 5, Trafficking).

The law prohibits sexual harassment; however, sexual harassment remained a widespread problem. On June 1, the Supreme Court of Appeal reaffirmed a March 2004 Cape high court judgment allowing a woman to sue her employer for failing to protect her against sexual harassment.

Discrimination against women remained a serious problem despite equal rights under family law and property law with regard to inheritance, divorce, and custody of children, and equal legal rights under the judicial system. Women experienced economic discrimination in areas such as wages, extension of credit, and access to land. For example, township housing transfer schemes favored existing titleholders, who tended to be men. Rural areas were often administered through traditional leadership structures, often including a chief or a council of elders, who did not grant land tenure to women, a precondition for access to housing subsidies.

In October 2004 the constitutional court ruled that allowing the eldest male descendant to inherit everything and excluding children whose parents were not married is unconstitutional and invalid. The judgment also provided a formula for calculating inheritances, including for children of unmarried parents and partners in polygynous unions.

Women, particularly black South African women, typically had lower incomes and less job security than men. Most women were engaged in poorly paid domestic labor and micro-enterprises, which did not provide job security or benefits. The Department of Trade and Industry provided incentive grants to promote the development of small and medium businesses and micro-enterprises for women, young persons, and persons with disabilities.

According to a survey conducted by the Businesswoman's Association during the year, women comprised 41 percent of the working population, but held only 14.7 percent of executive- and 7.1 percent of director-level positions.

Female farm workers often experienced discrimination, and their access to housing often was dependent on their relationship to male farm workers. Many female farm workers were denied maternity leave in violation of the law or were allowed only enough time to give birth before having to return to work.

A number of governmental bodies and NGOs monitored and promoted women's human rights. Numerous active women's rights groups focused on such areas as violence against women and the economic advancement of women.

Children.—The government was generally committed to children's welfare. The law provides for greater educational opportunities for disadvantaged children—traditionally black South African children—through a uniform system for the organization, governance, and funding of schools. It mandates compulsory education from ages 7 to 15 and ensures that children cannot be refused admission to public schools due to a lack of funds. According to the 2003 Statistics South Africa General Household Survey, approximately 97 percent of children between 7 and 15 years old were enrolled in school. Those not enrolled tended to be children with special needs. While there generally were comparable attendance numbers for boys and girls, a number of factors, including unplanned pregnancies, domestic responsibilities (particularly in rural areas), and gender stereotypes contributed to high drop-out rates and lower secondary school pass rates for girls.

Each of the nine provincial departments of education had responsibility for the schools in their provinces, which resulted in the uneven distribution of educational facilities. The disparity affected the poorer provinces of Eastern Cape, Limpopo, and KwaZulu-Natal most severely. The availability and quality of primary schooling continued to be a problem, especially in rural areas where schools often were not easily accessible or where children worked (see section 6.d.). HRW reported in 2004 that children attending farm schools, which are public schools on private commercial farms (13 percent of all state-funded schools), were among the poorest in resources and were vulnerable to the farmers on whose land they occupied. Many schools reportedly had problems of inadequate teaching materials, long-vacant teaching posts, overcrowding, late pupil registration, and vacation time vandalism.

There continued to be reports of widespread rape, sexual abuse, sexual harassment, and assaults of girls at school by teachers, students, and other persons in the school community. In August the *Sunday Times* reported that records of provincial education department disciplinary hearings showed that 49 teachers had been found guilty of raping, sexually abusing, or sexually harassing students during the previous 15 months. The law requires schools to disclose sexual abuse to the authorities; however, administrators often concealed sexual violence or delayed disciplinary action. The level of sexual violence in schools also increased the risk for girls of contracting HIV/AIDS or other sexually transmitted diseases, as well as unwanted

pregnancies. Girls were often raped on school premises, and the victims' age generally ranged from 4 to 14.

Although the law prohibits corporal punishment in schools, there were reports that teachers used physical violence to discipline students. There also continued to be racially motivated violence among students in schools.

The HIV/AIDS activists, physicians, and opposition parties continued to widely criticize the government for failing to protect young children from HIV/AIDS transmission through the provision of ARV therapy to pregnant and breast-feeding women. The government responded to a 2004 constitutional court finding that they must provide programs to prevent the transmission of HIV from mothers to children by expanding the number of antenatal clinics providing nevirapine to HIV-positive mothers. Implementation by the national and provincial governments was slow, and the government continued to raise concerns about the use of nevirapine mono-therapy to prevent transmission. The government was unable to provide for the rapidly growing number of children who were affected by HIV/AIDS, including both infected children and AIDS orphans.

Violence against children, including domestic violence and sexual abuse, remained widespread. While there was increased attention to the problem, a lack of coordinated and comprehensive strategies to deal with violent crimes continued to impede the delivery of needed services to young victims. According to the 2004–05 SAPS report, 22,486 children were raped, 1,128 were murdered, 24,189 were assaulted with intention to do grievous bodily harm, and 4,829 were subjected to indecent assault. Observers believed that these figures represented a small percentage of the actual incidents of child rape, because most cases involved family members and were not reported. The country had a low conviction rate for rape and child abuse. The minimum sentence for rape of a child was life in prison; however, judges have the discretion to grant more lenient sentences.

The law prohibits virginity testing but was not always enforced. For example, virginity testing occurred in KwaZulu-Natal, especially related to the Reed Dance ceremony in which only "maidens" could participate.

Despite several outreach programs in 2004, traditional male circumcision was still prevalent in various parts of the country. Initiation practices, which included circumcisions, continued during the year. The House of Traditional Leaders attempted to address unsafe initiation practices and designed strategies to prevent deaths and the spread of diseases, such as HIV/AIDS. The Department of Health in the Eastern Cape provided 400 surgeons, 425 officials, and 80 vehicles during the June initiation season to monitor initiation practices. Nonetheless, circumcision deaths reported in the Eastern Cape during the year increased from 14 in the previous year to 20, according to press reports.

Child prostitution continued during the year (see section 5, Trafficking).

The government continued to increase its social welfare programs to children affected by poverty and the loss of parents, and, according to the Ministry of Social Development, more than 5.5 million children received such grants during the year, according to the ministry. Child support grants cover children up to the age of 14, but it was sometimes difficult for children, particularly in rural areas, to obtain access to health care facilities and other social welfare programs.

NGOs provided shelter, medical, and legal assistance for child prostitutes and a hot line for victims of child abuse. The government donated land and buildings for various shelters for victims of sexual abuse, street children, and orphans.

Child labor was a problem (see section 6.d.).

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons, and trafficking in persons was a problem. The government used the Prevention of Organized Crime Act, the Basic Conditions of Employment Act, the Refugee Act, the Aliens Control Act, and provisions of criminal law to prosecute traffickers.

The law prohibits the commercial sexual exploitation of children, sexual intercourse with children under 16, and permitting a female under 16 to stay in a brothel for the purpose of prostitution.

The prosecution of 2004 cases involving child prostitution in Cape Town continued at year's end.

Charges were dropped against members of a Nigerian syndicate implicated in the trafficking of 14 girls in Johannesburg after the girls reportedly refused to testify.

The NPA's SOCA section coordinated an interagency task force to develop and implement a strategy for dealing comprehensively with trafficking in persons. The task force included the departments of foreign affairs, social development, justice and constitutional development, health, safety and security, as well as the NPA, SAPS, and local and international NGOs.

Corruption within the police, immigration, customs, and private services at the airport impeded interdiction efforts. For example, traffickers reportedly bribed offi-

cials to help them move victims out of the transit area to avoid detection. The border police incorporated antitrafficking material into their training manuals, and both police and judicial officials continued to receive training in antitrafficking in persons activities. Despite this effort, law enforcement units handling trafficking problems were understaffed and sometimes corrupt, which hindered effective enforcement. The country used its 54 sexual offenses courts to handle trafficking cases and relied heavily on NGOs to provide witness protection.

The country was a destination, transit, and point of origin for the trafficking of persons, including children, from other countries in Africa, Asia, and Europe for prostitution and forced labor. A substantial number of persons were believed to be trafficked annually. Domestic and international organized crime syndicates trafficked women into the country for the sex industry. Young men were generally trafficked for agricultural work.

The extent of trafficking operations was unknown, but the International Organization for Migration (IOM) reported there were 12 major routes for trafficking operations, including Southern Africa, Asia, and Eastern Europe.

Trafficked women and children who worked in the sex industry often lived with other trafficked victims in segregated areas; were frequently under constant surveillance; usually had no money or identifying documents; were often indebted to the agents who arranged their travel; often worked long hours, in some cases up to 18 hours each day, on weekends, and when ill; and sometimes were fined by their trafficker for infractions of strict rules. Young men trafficked for forced agricultural labor often were subjected to violence and food rationing.

Child prostitutes were often highly sought because of the belief that sex with them provided a cure for HIV/AIDS.

According to the IOM, there were several major criminal groups in the country that trafficked women: Bulgarian and Thai syndicates; the Russian and the Chinese Mafia; and African criminal organizations, mainly from West Africa. Traffickers also included male citizens and African refugees.

In most cases traffickers lured women with promises of employment, marriage, or educational opportunities abroad. Traffickers often lured the children of poor families with promises of jobs, education, or a better way of life. Victims, who could be kidnapped or forced to follow their traffickers, were subjected to threats of violence, withholding of documents, and debt bondage to ensure compliance.

Government agencies did not facilitate trafficking; however, during the past two years, a few immigration officers from the Department of Home Affairs were dismissed for such activities.

Some domestic victims of trafficking were placed in government facilities for the sexually abused. The government continued to fund private shelters that provided short- and long-term care to trafficking victims.

Persons with Disabilities.—The law prohibits discrimination on the basis of disability; however, government and private sector discrimination in employment existed. The law mandates access to buildings for persons with disabilities, but such regulations rarely were enforced, and public awareness of them remained minimal. The National Environmental Accessibility Program, an NGO staffed by persons with disabilities as well as service providers, had a presence in all nine provinces to lobby for compliance with the regulations and to sue offending property owners when necessary.

The law provides persons with disabilities with protection from harassment and, in conjunction with the Employment Equity Act, also provides guidelines on the recruitment and selection of persons with disabilities, reasonable accommodation for persons with disabilities, and guidelines on proper handling of employee medical information; enforcement of this law was limited. The law also requires employers with more than 50 workers to create an affirmative action plan with provisions for achieving employment equity for persons with disabilities. It was estimated that persons with disabilities constituted only 0.02 percent of the public service workforce, compared with 5.9 percent of the general population.

On May 11, the Compensation Commissioner settled a 2004 class action suit filed by the Legal Resources Center, which represented 50 thousand citizens disabled by work-related accidents in the previous 11 years; the litigants claimed the government renege on its statutory obligation to provide them with their source of income. Under the agreement the commissioner committed to pursue all outstanding claims within eight months and enact new procedures for these types of cases.

National/Racial/Ethnic Minorities.—The law requires employers with 50 or more employees to ensure that previously disadvantaged groups, defined for legal purposes as “Blacks”—including “Africans,” “Colored,” and “Asians,”—are represented adequately at all levels of the workforce; however, they remained underrepresented,

particularly at the professional and managerial levels. The government continued efforts to reorganize and redesign the educational, housing, and health care systems to benefit all racial and ethnic groups in society more equally.

Notwithstanding the country's antidiscrimination legislation, the Commission for Employment Equity reported in its 2003 annual report that racial imbalances in the workplace still existed, and that only 19 percent of positions at the top management level in 2002 were held by Blacks and approximately 31 percent of professionally qualified employees were Black. The report makes it clear that Black women by far remained the most disadvantaged off in terms of the number and quality of senior or skilled jobs. Employers cited a lack of training and development, poor recruitment processes, and an antagonistic corporate culture as the main impediments to affirmative action.

Blacks constituted 83 percent of the workforce in unskilled, low paid jobs. In occupations such as newspaper vendors, garage attendants, car washers, gardeners, and garbage collectors, Blacks accounted for 98 percent of the workforce.

The armed forces struggled with the process of integrating black South Africans into the predominantly white officer corps.

The continued killings of mostly white farm owners by black South African assailants created concern among white farmers that they were being targeted for racial and political reasons (see section 1.a.). There also were reports that white employers abused and killed black South African farm laborers, and complaints that the white employers received preferential treatment from the authorities (see section 1.a.).

Xenophobia led to attacks on foreigners, and anti-immigrant groups such as the Unemployed Masses of South Africa often blamed immigrants for job losses. In June the African Communities Network claimed that increasing xenophobia in the Western Cape resulted in the shooting and beheading of a Burundian security guard.

No arrests were made in a series of attacks in December 2004 on Somali refugees in the Western Cape, Eastern Cape, and Gauteng; seven refugees were killed.

No action was taken against those responsible for the alleged killings of as many as 28 refugees in 2002 and 2003.

Indigenous People.—The Khoikhoi, nomadic herders of cattle and sheep, were the first indigenous people in the country and lived mainly in the southwestern Cape. Only a few thousand Khoikhoi remained, some of whom worked as farmers or laborers on farms. Under the law the Khoikhoi have the same political and economic rights as other citizens; however, their participation was limited due to fewer opportunities, minimal access to education, and relative isolation.

On March 1, the SAHRC issued a report criticizing the government for failing to protect the rights of the Khomani San community, particularly in respect to poor service delivery and the administration of fixed farms.

Other Societal Abuses and Discrimination.—There was some official and societal violence and discrimination against homosexuals; however, unlike in the previous year, there were no reports that police raped, beat, or assaulted homosexuals.

Although the government conducted campaigns to reduce or eliminate discrimination against persons with HIV/AIDS, the social stigma associated with HIV/AIDS remained a general problem. There were reports of the abuse of HIV-infected individuals by their families and communities.

Section 6. Worker Rights

a. The Right of Association.—The law provides for freedom of association, and workers exercised this right. All workers with the exception of members of the National Intelligence Agency and the Secret Service were entitled to join a union. Union membership continued to decline steadily as a result of job layoffs and declining formal sector employment. Total union membership as of 2003 was approximately 3.3 million persons, 42 percent of persons employed in the formal sector.

Although labor laws protected farm workers, some farm workers' unions encountered difficulties trying to organize workers because union organizers were considered trespassers on private property. In addition farm workers or farm residents who attempted to organize were harassed, dismissed, and evicted. The Department of Labor (DOL) and unions enlisted the cooperation of AgriSA, the national farmers' organization, to educate farmers about workers' rights and to improve working conditions. The DOL reported that 4.5 percent of the agricultural labor force was unionized.

b. The Right to Organize and Bargain Collectively.—The law defines and protects the rights of workers to organize and bargain collectively; workers exercised these rights. There are no export processing zones.

The law provides for the right to strike, and workers exercised this right. Although members of the SANDF were allowed to join a union, they and other work-

ers considered to be providing an essential service were prohibited from striking. Disputes between workers in essential services and their employers that are not resolved through collective bargaining, independent mediation, or conciliation are referred to arbitration or the labor courts.

In August police reportedly used rubber bullets to disperse a demonstration of strikers, resulting in injuries to strikers and journalists. Leaders of municipal unions were briefly detained without charge. During the demonstration, six union members allegedly beat to death a worker who tried to report to work.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor is prohibited by law; however, child labor was widespread in informal and agricultural sectors, particularly in the former homeland areas. The government generally enforced child labor laws in the formal sectors of the economy. The death of parents by HIV/AIDS has increased the number of children who have to support themselves.

The law prohibits employment of a child who is under 15 years of age; who is under the minimum school-leaving age (where the age is 15 or older); or who is over 15 but under 18 if the work places at risk the child's well being, education, physical or mental health, or spiritual, moral, or social development, or has been prohibited by the minister of labor. Underage children in the performing arts were allowed to work if their employer received DOL permission and agreed to follow specific guidelines.

Child laborers, including those from Zimbabwe and Mozambique, worked in the country on commercial farms, for the taxi industry, or as domestic servants.

There were reports that children were forced into prostitution and anecdotal evidence that some children worked in conditions that amounted to bondage (see section 5, Trafficking).

During the year the DOL recruited and trained inspectors to follow up on transgressors and enforce existing policies. Violation of laws regulating child employment are punishable by a maximum prison sentence of 3 years or a fine of \$2,308 (R15 thousand). DOL inspectors continued to investigate a case of child labor against a Ventersdorp commercial farmer in the North West Province that involved a 13-year-old boy who was seriously injured while allegedly working on the farm. In some cases, DOL inspectors opted to resolve child labor cases through counseling of employers, parents, and children or by enlisting the services of professionals in the welfare and education departments. There were reports that inspectors had difficulty gaining access to farms where incidents of child labor were reported.

The DOL continued an awareness program aimed at educating farmers about the rights of children.

e. Acceptable Conditions of Work.—There was no legally mandated national minimum wage, but the law gives the Minister of Labor the authority to set wages by sector. As of July, minimum wages had been established for the retail sector, farm laborers, domestic workers, and taxi (minibus) drivers. The minimum wage for farm workers was approximately \$141 (R950) a month in urban areas and \$117 (R872) a month in rural areas. The minimum hourly rates for domestics depended on the number of hours worked and could range from \$0.50 (R3.87) to \$0.80 (R5.25). Compliance with the minimum wage rate ranged from 65 to 90 percent, depending on province. These wages did not provide a decent standard of living for a worker and his family.

Annual negotiations between employers and employee associations or unions set wage rates on an industry-by-industry or plant-by-plant basis for unionized workers in the formal economy. Such negotiated wages generally were sufficient to provide a decent standard of living for a worker and family; however, in sectors in which workers were not organized sufficiently to engage in collective bargaining, many unskilled or rural workers were unable to provide an adequate standard of living for themselves and their families.

The law standardizes time-and-a-half pay for overtime, establishes a 45-hour workweek, and authorizes 4 months of maternity leave for women. A ministerial determination exempted businesses employing fewer than 10 persons from certain provisions of the law concerning overtime and leave. These provisions often did not apply to farmers.

The government set occupational health and safety standards. Occupational health and safety issues were a top priority of trade unions, especially in the mining, construction, and heavy manufacturing industries, and the country's industrial and mining processes were dangerous and sometimes deadly. The law provides for the right of mine employees to remove themselves from work deemed dangerous to

health or safety. In addition, a tripartite mine health and safety council and an inspectorate of mine health and safety were responsible for enforcing the act and monitoring compliance with its provisions. The law specifically prohibits discrimination against an employee who asserted a right granted by the law (for example, to leave a hazardous work site) and required mine owners to file annual reports providing statistics on health and safety incidents for each mine.

There were no laws or regulations, other than in the mining industry, that permitted workers to remove themselves from work situations deemed dangerous to their health or safety without risking loss of employment; however, the law provides that employers may not retaliate against employees who disclose dangerous workplace conditions.

The investigation into the September 2004 explosion at a Sasol plastics plant that killed 11 and injured 142 persons was ongoing at year's end.

Labor conditions for mostly black farm workers were harsh. Many mostly white farmers did not accurately measure working hours and often required their laborers to work 11 hours per day and 6 days per week. Twelve-hour days were common during harvest time, and few farmers provided overtime benefits. HRW reported low wages, a lack of basic services in farm workers' housing, and inadequate education for workers' dependents (see section 5). Some white farmers still gave the predominantly black farm workers cheap alcohol (a system of payment known as "tot") in addition to wages. Mostly white farmers continued to evict workers legally and illegally; however, unlike in previous years, there were no reports that farmers set their dogs on employees (see section 1.f.). There was lack of compliance with labor legislation, lack of information on HIV/AIDS, and unacceptable levels of violence and crime against farm workers and farm owners. Health and safety regulations often were not observed during the use of chemicals in agricultural work.

SUDAN

Sudan, with a population of 40.2 million, has an authoritarian government in which President Omar Hassan al-Bashir and the National Congress Party (NCP) inner circle hold all effective political power. In 2000 Bashir was reelected, and his political party won 340 out of 360 seats in the parliament in deeply flawed elections boycotted by all major opposition parties. The country experienced serious and violent ethnic and religious conflict, including a rebellion in the South led by the Sudan People's Liberation Movement (SPLM) and a rebellion in Darfur led by the Sudan Liberation Movement/Army and the Justice and Equality Movement (JEM). On January 9, the government and the SPLM signed a Comprehensive Peace Agreement (CPA) that gave the SPLM representation in the government. The parties adopted a constitution in July, and in September they installed a government of National Unity (GNU) to serve until elections are held in 2009. The state of emergency was lifted on July 9. The government generally maintained effective control over the security forces.

In Darfur, government and government-supported militia (*janjaweed*) committed serious abuses during the year, killing hundreds of civilians, razing villages of African tribes, and committing acts of torture and violence against women. On January 25, the UN International Commission of Inquiry on Darfur concluded that, while the government did not pursue a genocidal policy directly or through the militias under its control, there were violations of humanitarian and international law that could be considered war crimes. The World Health Organization reported that, as a result of the conflict, at least 70 thousand civilians had died, more than 1.9 million civilians were internally displaced, and an estimated 210 thousand refugees fled to neighboring Chad since the start of the Darfur conflict. Despite the presence in Darfur of the African Union-led international monitoring force (African Mission in Sudan or AMIS), security remained a major problem, and reports of violence continued at year's end.

The government's human rights record remained poor, and there were numerous serious problems, including evidence of continuing genocide in Darfur, for which the government and *janjaweed* continued to bear responsibility. The following human rights problems were reported:

- abridgement of citizens' rights to change their government
- evidence of war crimes
- extrajudicial and other unlawful killings by members of the security forces and government-allied militias acting with impunity
- killings of civilians in conflict

- abductions
- torture, beatings, and rape by security forces
- harsh and life-threatening prison conditions
- arbitrary arrest and detention, including incommunicado detention of suspected government opponents, and prolonged pretrial detention
- executive interference in the judiciary and denial of fair trial in civilian and military courts
- forced military conscription of underage men
- obstructions to humanitarian assistance in Darfur
- infringement of citizens' privacy rights
- severe restrictions on freedom of speech, press, assembly, association, religion, and movement within the country
- harassment and detention of internally displaced persons (IDPs)
- harassment of human rights organizations
- violence and discrimination against women and female genital mutilation (FGM)
- abuse of children, particularly in Darfur
- trafficking in persons
- discrimination and violence against ethnic minorities
- denial of workers' rights
- forced labor, including forced child labor, by security forces and associated militias
- widespread child labor

Antigovernment insurgent groups and associated militia forces also committed numerous, serious abuses. The SPLM Army (SPLM/A), the Sudan Liberation Army (SLA), and the JEM committed killings, beatings, abductions, rape, robbery, destruction of property, and forcible conscription. They restricted freedom of movement of populations under their control and access of relief workers and supplies, and kidnapped and killed nongovernmental organization (NGO) workers.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of politically motivated killings by the government or its agents; however, there were reports of numerous extrajudicial killings (see section 1.g.).

On August 15, the Special Criminal Court in Darfur convicted 2 military intelligence officers for killing a 13-year-old boy in custody in North Darfur in March. It was the first conviction of government officials for murder in a case of death by torture.

There were no known developments in the case of two members of the security services arrested in 2004 in connection with the September 2004 death of two men in government custody.

The police and army killed demonstrators (see section 2.b.).

Although the level of large-scale violence in Darfur diminished during the year, general lawlessness and continued attacks by militias and rebel and paramilitary forces on villages, humanitarian aid workers, and convoys increased the degree of insecurity (see section 1.g.).

Approximately 75 civilians reportedly died or were injured due to landmines in the South, although some observers believed the number to be much higher since only a small percentage of deaths were actually reported to the UN (see section 1.g.). The government cooperated with the UN Mine Action Group to remove landmines in the South.

Government-allied militias continued to use violence in the South. The Civilian Protection Monitoring Team (CPMT) confirmed that government-allied militia forces attacked Akobo and killed two civilians on February 17.

Rebel groups operating throughout the country were responsible for killings (see section 1.g.).

Interethnic conflict resulted in deaths during the year (see section 5).

Societal violence occurred after the death of First Vice President John Garang on July 30. Riots erupted in Khartoum and Juba, resulting in several deaths and injuries. Credible sources indicated that in the immediate aftermath of Garang's death southerners attacked and killed northerners in the capital. In retaliation, northern

vigilante groups harassed, beat, and killed at least 100 southerners. Credible sources indicated the complicity of the police and army in retaliation against southerners.

The genocide determined to have occurred in Darfur by the Department of State in September 2004 continued in 2005 (see section 1.g.).

b. Disappearance.—There were continued allegations that the government was responsible for politically motivated disappearances, including those of persons suspected of supporting rebels, especially in Darfur.

An estimated 15 thousand Dinka women and children have been abducted, mainly from 1983 to 1999; between 10 thousand and 12 thousand of these, primarily Dinka, remained unaccounted for at year's end. Observers believed that some of those abducted in the past were sold into de facto slavery as forced laborers, while others were drafted into the military. In some cases the abductees escaped or eventually were released or ransomed; in other cases they were killed. Few persons who were previously abducted were returned during the year by the government's Committee to Eradicate the Abduction of Women and Children (CEAWC). The government did not identify the abductors or forced-labor owners and has not prosecuted them.

Rebel forces in Darfur reportedly abducted persons, including government officials and humanitarian aid workers (see sections 1.g. and 4.).

There also were reports of periodic intertribal abductions of women and children in the Eastern Upper Nile (see section 5.).

The Ugandan Lord's Resistance Army (LRA) kidnapped children in Uganda and brought them into the southern part of the country. The LRA also killed civilians in the South (see section 5.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the constitution prohibits such practices, government security forces continued to torture, beat, and harass suspected political opponents and others.

In accordance with Shari'a (Islamic law), the Criminal Act provides for physical punishments, including flogging, amputation, stoning, and "crucifixion"—the public display of a body after execution. According to the constitution, the government officially exempts the 10 southern states from Shari'a law. There were no reports of physical punishments carried out against non-Muslims in the North. During the year hundreds of persons, primarily southerners, were flogged, especially after the August Khartoum riots. On December 25, the Special Court in Zalingy, Darfur, sentenced a man to cross amputation after convicting him of murder and armed robbery.

Credible sources indicated that security forces tortured to death several southerners in security camps during the Khartoum riots. Common methods of torture were severe beatings and beatings of the genitals. Individuals perceived as government opponents were subjected to torture.

On January 24, authorities arrested, beat, and detained, and for several months political activist Salah Abdelrahman; they held Abdelrahman incommunicado for two months before releasing him on August 11 without filing charges.

Impunity continued to be a serious problem. On October 17, government security forces detained and tortured nine students on the campus of the Islamic University in Omdurman after they attempted to form a union. The students were beaten with thick metal chains, plastic piping sticks, and rifle butts.

There were reports that government security forces tortured and beat persons suspected of supporting the rebels in Darfur. On February 22, Mahmoud Abaker Osman and Diggo Abdel Jabbar were arrested on suspicion of joining the SLA in Darfur. They were reportedly detained for 11 days in a hole in the ground and beaten with sticks.

Security forces beat and mistreated refugees and injured and killed persons while dispersing demonstrations (see sections 2.b. and 2.d.).

Soldiers, Popular Defense Force (PDF) members, and militia forces raped women (see section 1.g.). There was a clear and documented pattern of rape and sexual abuse directed at IDPs of all ages in Darfur (see section 1.g.).

Although there were two convictions for torture during the year, the government seldom acted against security forces responsible for torture or other such abuses.

Government forces and allied militias were responsible for injuring many civilians during attacks on rebel forces, during raids on civilian settlements (see section 1.g.).

SPLM/A and affiliated forces were responsible for civilian injuries (see section 1.g.).

Prison and Detention Center Conditions.—Prison conditions remained harsh, overcrowded, and life threatening. Most prisons were old and poorly maintained, and many lacked basic facilities such as toilets or showers. Health care was primitive, and food was inadequate. Prison officials arbitrarily denied family visits to pris-

oners. High-ranking political prisoners reportedly often enjoyed better conditions than did other prisoners.

The government routinely mistreated persons in custody. There were credible reports that security forces held detainees incommunicado; beat them; deprived them of food, water, and toilets; and forced them to sleep on cold floors.

Juveniles often were held with adults and in some cases subjected to sexual abuse by the adult inmates. On October 9, an adult inmate raped a 16-year-old male in police detention in Juba.

The government did not permit regular visits to prisons by domestic human rights observers; however, in the latter part of the year, the government allowed limited access to UN monitors. The government granted the International Committee for the Red Cross (ICRC) limited access to some detention facilities, but the ICRC requested unrestricted access, which the government denied.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention without charge; however, the government continued to use arbitrary arrest and detention under the state of emergency provisions (until July 9) or under the National Security Act.

Role of the Police and Security Apparatus.—The National Intelligence and Security Service (NISS) and the Ministry of Interior both have security forces under their control, along with the police force that maintained internal security. The police forces included regular police units and the Popular Police Force, a parallel progovernment force that received higher pay than regular forces. Effectiveness varied depending on the strength of the local militias and security forces. The army was responsible for external and internal security. Police corruption was a problem, and police officers supplemented their incomes by extorting bribes from the local civilians. Impunity remained a serious problem.

Arrest and Detention.—Warrants are not required for an arrest. Under the Criminal Code, an individual may be detained for 3 days without charge, which can be extended for 30 days by order of the director of security and another 30 days with the approval of the prosecuting attorney. Under the National Security Act, which supersedes the Criminal Code, an individual accused of violating national security may be detained for three months without charge, which the director of security may extend for another three months. Under the state of emergency, the government was not constrained by the National Security Act and reportedly detained individuals indefinitely without judicial review. The law provides for the individual to be informed of the arrest charges at the time of arrest and for prompt judicial determination without undue delay, but these provisions were rarely followed.

The law allows for bail, except for those accused of crimes punishable by death or life imprisonment, and there was a functioning bail system.

Although the law provides for access to a lawyer, security forces often held persons, including criminal detainees, incommunicado for long periods in unknown locations without access to their lawyers or family members.

Individuals were arbitrarily arrested and detained. In general the government detained persons for a few days before releasing them without charge or trial; however, there were exceptions, particularly for perceived political opponents.

The government held an estimated 100 political detainees, such as members of opposition parties, and security forces reportedly tortured, detained without charge, and held incommunicado political opponents (see section 1.c.). Detentions of such persons generally were prolonged. Security forces arrested numerous persons suspected of supporting the rebels in Darfur, some of whom were tried, convicted, and sentenced to death under special courts (see section 1.e.). Security forces frequently harassed political opponents by summoning them for questioning, forcing them to remain during the day without questioning, and then ordering their return the following day—a process that sometimes continued for weeks. For instance on October 23, NISS arrested leading Kalma camp IDP spokesman Sheikh Suleiman Abaka Taha and released him three days later. On October 31, he was rearrested by police and at year's end remained in custody, although the charges against him were unclear.

The government did not permit international humanitarian organizations to have access to political detainees.

Unlike in the previous year, there was a decrease in the detention of members of Hassan al-Turabi's Popular Congress Party. On June 30, authorities released Turabi (after 15 months' detention) and 17 members of the Eastern-based Beja Congress (who had been detained for 5 months without charges).

Journalists were arrested and detained during the year (see section 2.a.).

Unlike in the preceding year, detentions nominally for religion reasons were extremely limited. For example, on May 4, the *Al Wafaq* editor-in-chief faced criminal

charges of insulting religious creed when he republished an article with contentious assertions regarding the origins of the Prophet Mohammed.

Security forces often targeted southern women in IDP camps because they produced and sold traditional home-brewed alcohol; such women were arrested and imprisoned for up to six months under Shari'a. Some women were held in prison until they could pay the fine, regardless of time served in prison, thereby effectively serving indefinite sentences. Vagrant children accused of committing crimes were detained for indefinite periods (see section 5).

Arrests and detentions of NGO members and civil society groups increased from the previous year (see section 4).

Arbitrarily lengthy detention before trial was common. Trial delays were caused by large numbers of detainees and judicial inefficiency, such as the failure of judges to appear for court.

The government routinely used house arrest without due process.

e. Denial of Fair Public Trial.—Although the constitution provides for an independent judiciary, the judiciary was largely subservient to the president or the security forces, particularly in cases of crimes against the state.

A judiciary committee recommends and the president appoints the chief justice and justices of the Supreme Court. The president appoints the Constitutional Court's seven members. On occasion courts displayed a degree of independence. For example, appeals courts overturned several decisions of lower courts in political cases, particularly decisions from public order courts. However, political interference with the courts regularly occurred.

The judicial system includes four types of courts: regular, military, special, and tribal courts. Tribal courts functioned in rural areas to resolve disputes over land and water rights, and family matters. Within the regular court system, there are civil and criminal courts, appeals courts, and the Supreme Court. Special courts in Darfur operated under the state of emergency to try crimes against the state; there were three such courts, one in each Darfur capital. The Criminal Act governs criminal cases, and the Civil Transactions Act applies in most civil cases. Shari'a is applied in the North but not by courts in the South.

Trial Procedures.—The law provides for fair and prompt trials; however, this was often not respected. Trials in regular courts nominally met international standards of legal protections.

Trials were open to the public at the discretion of the judge. In cases of national security and offenses against the state, trials were usually closed. Juries are not used.

The accused normally have the right to an attorney, and the courts are required to provide free legal counsel for indigent defendants accused of crimes punishable by death or life imprisonment; however, there were reports that defendants frequently did not receive legal counsel and that counsel in some cases could only advise the defendant and not address the court. There were reports that the government sometimes denied defense counsel access to the courts or did not allow the calling of defense witnesses. For example, an appeals court upheld a judge's October 2004 ruling that banned lawyers from representing 28 defendants on trial for allegedly plotting a coup and ordered them to pick new counsel or accept government-appointed lawyers. Thereafter 43 additional persons were charged. On May 15, 49 out of the 81 defendants were convicted of plotting a coup and sentenced to 5 to 15 years in prison. The others were released.

According to the law, there is a presumption of innocence; however, this was not respected in practice. Defendants have a right to appeal, except in cases of military trials where the decision is final and there is no appeal.

Military courts tried only military personnel. Military trials, which sometimes were secret and brief, did not provide procedural safeguards. For example, the defendant's attorney could advise the defendant but could not address the court. Witnesses may be permitted to appear at military trials.

The Special Courts Act created special three-person security courts to deal with violations of constitutional decrees, emergency regulations, and some sections of the Penal Code, as well as with drug and currency offenses. Special courts, composed primarily of civilian judges, handled most security-related cases. Attorneys could address the court. Lawyers complained that they sometimes were granted access to court documents too late to prepare an effective defense. Sentences usually were severe and implemented at once; however, death sentences were referred to the chief justice and the head of state. Defendants could file appellate briefs with the chief justice. The defendant has seven days to appeal a decision; the decision of the appeal court is final. Special criminal courts operated in Darfur as authorized by presidential decree.

Lawyers who wished to practice were required to maintain membership in the government-controlled bar association. The government continued to harass members of the legal profession whom it considered political opponents. On September 27, security forces in Darfur briefly detained Darfur Lawyers Association director Mohamed Addoma and several fellow lawyers while they were attending a conference on legal aid.

In the South the SPLM employed a judicial system of county magistrates, county judges, regional judges, and a court of appeals. The court system did not function in many areas due to lack of infrastructure, communications, funding, and an ineffective police force. The SPLM recognized traditional courts or "courts of elders," which usually heard domestic matters such as marriages and dowries and based their decisions on traditional and customary law. Local chiefs usually presided over traditional courts. Traditional courts were particularly active in Bahr el-Ghazal. In rural areas outside effective SPLM control, tribal chiefs applied customary laws.

In parts of the South and the Nuba Mountains where civil authorities and institutions did not operate, there were no effective judicial procedures. According to credible reports, military units in those areas summarily tried and punished those accused of crimes, especially for offenses against civil order.

Political Prisoners.—Although there were no convicted political prisoners, the government did hold political detainees (see section 1.d.).

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, but the government routinely violated these rights in practice. Security forces frequently conducted night searches without warrants and targeted persons suspected of political crimes.

In Darfur throughout the year government armed forces and allied militia continued to burn down villages, loot property and attack IDP camps. For example, on April 7, approximately one thousand heavily armed men on camels and horses along with the six Land Cruisers belonging to the government army attacked the village of Salloquoia. According to survivors, the government vehicles surrounded the village, and soldiers along with the armed militias indiscriminately shot at and then burned the village. Approximately 22 men and women were killed, and women were raped. On July 24, approximately 40 government soldiers attacked an IDP camp in Shangil Tobaya. The soldiers reportedly lined up on both sides of the road and shelled the camp for 20 minutes. Following the shelling, the soldiers continued to shoot civilians and burned approximately 130 houses. The attack left 5 people dead and 17 injured. On September 24, Arab militias backed by government soldiers attacked the village of Toray in South Darfur. Both the Arab militia and the government soldiers were heavily armed, arriving in four Land Cruisers and on camelback. The four military vehicles, mounted with guns, were parked in an area outside the village and started shooting into the village. The group split into three, with one group entering the valley and destroying the irrigation system. The second group stayed in the village and began indiscriminately shooting the civilian population. The village was pillaged; all water pumps were stolen or destroyed and large numbers of cattle stolen; eight villagers were killed and at least three women were reportedly raped.

Police often entered IDP areas without a warrant in search of illegal alcohol brewing and often seized property unrelated to brewing. Police also extorted money from illegal alcohol brewers by threatening them with prison. For example, between September and October in Zalengei, South Darfur, human rights observers documented four incidents of IDP harassment by government forces. Typically armed men in green uniforms broke into houses at night, made threats, and attempted to assault female IDPs.

A wide network of government informants conducted surveillance in schools, universities, markets, workplaces, and neighborhoods.

The government continued forcibly to conscript citizens for military service as part of mandatory military service for male citizens, and government-allied forces and rebels continued to recruit and accept child soldiers in Darfur (see section 1.g.). Community leaders relayed unconfirmed reports that all sides to the conflict in Darfur recruited child soldiers. The UN Children's Fund (UNICEF) worked to raise awareness of the law and dangers in using child soldiers. As a result of its awareness campaign, more than 500 children have been released in Darfur; more than 200 of the children were attending UNICEF schools.

A Muslim man may marry a non-Muslim, but a Muslim woman cannot marry a non-Muslim, unless he converts to Islam (see section 5); however, this prohibition was not observed or enforced universally, particularly in the South and among Nubians. Non-Muslims may adopt only non-Muslim children; no such restrictions apply to Muslim parents.

The SPLM/A generally did not interfere with privacy, family, home, or correspondence in areas that it controlled; however, southern militias, especially the South Sudan Independent Movement, continued forcibly to conscript citizens, including children of high school age.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—While all sides in Darfur violated international law and international humanitarian law, the government and the *janjaweed* continued to bear responsibility for genocide that occurred in Darfur. On January 25, the UN International Commission of Inquiry on Darfur concluded that the government did not pursue a genocidal policy directly or through the militias under its control; however, it concluded that there were violations of humanitarian and international law that might be considered war crimes.

The conflict in Darfur has roots in both government neglect of the region and ethnic tensions between nomadic pastoralists and sedentary farming communities, exacerbated by scarce resources and the government's support of the nomad militias. The government and Arab militia forces destroyed a large number of villages of African tribes, and there were tens of thousands of deaths. At year's end there were more than 1.8 million IDPs in Darfur, and another 210 thousand civilians had fled into Chad, where the UN High Commissioner for Refugees (UNHCR) coordinated a massive refugee relief effort. More than 70 thousand persons died as a result of the violence and forced displacement; the ongoing conflict in Darfur contributed to widely divergent estimates of how many persons may have been killed. The government continued to support the largely Arab nomad *janjaweed* militia, which terrorized and killed civilians, raped women, and burned and pillaged the region.

The government and government-supported militias attacked IDP camps, civilian facilities, and housing, killing hundreds of civilians, including children. The government-allied militia and rebel militias used excessive force and violated humanitarian law in Darfur. The AMIS Ceasefire Commission confirmed that on January 13 the *janjaweed* and armed militia supported by government military vehicles attacked Hamada village in Darfur, killing 77 civilians, injuring 18 civilians, and raping 13 women, the youngest of whom was 9 years old. On September 28, *janjaweed* attacked Aro Sharow IDP camp in Darfur, killing 34 persons and seriously injuring civilians. On October 23, an attack on the Fur village of Tama in southern Darfur left dozens of civilians dead and many more injured.

Beginning in September there was an upsurge of violence in Darfur that included attacks on villages. Typically, mounted *janjaweed* forces, often in concert with regular government forces, conducted the attacks. Although the government employed aerial bombardments in attacks against some villages, it significantly reduced the use of such aerial bombardments during the year.

The UN's International Commission of Inquiry in Darfur found that "rape or other forms of sexual violence committed by the *janjaweed* and government soldiers in Darfur was widespread and systematic." The majority of victims were women and girls that lived in camps for IDPs and were raped if they left their camps to gather firewood, water, or food. Women often described the perpetrators as "men in uniform," either government or rebel soldiers. Rape victims were almost always beaten, threatened with death, and subjected to racial epithets during attacks. In some cases attackers killed their victims.

Authorities, particularly the police, often obstructed access to justice for rape victims (see section 5). For example, on February 5, two sisters allegedly beaten and raped by three armed progovernment militia men in Western Darfur State stated that they did not report the incident to the police because of the harassment they endured when reporting an earlier rape. On February 15, in Southern Darfur State, progovernment militia raped two female minors. A local sheik who lodged a complaint on their behalf with the local police was arrested for spreading false information; although the minors had a corroborating medical report, they refused to file a complaint for fear of further police reprisals.

The NGO MSF-H reported that between October 2004 and mid-February, it had treated almost 300 rape victims in western Darfur. During October the UN documented 21 cases of sexual and gender-based violence in western Darfur: 9 cases of rape, 4 cases of attempted rape, and 8 cases of assault.

By year's end the government had taken some small steps to improve the situation of violence against women in Darfur: increasing the number of prosecutors to 15 to focus on rape prosecutions, increasing the number of female police officers (although they functioned as secretaries), beginning public discussion on the previously taboo topic of rape, and removing the requirement for rape victims to file a police report before receiving medical treatment (see section 5). However significant problems remained regarding violence against women, including the harassment and intimidation by police of rape victims, lack of investigations into rape allegations, and the continued impunity of the police in Darfur.

After sustained international pressure, the government considerably improved humanitarian access to Darfur by issuing entry visas and facilitating importation of supplies; however, increased insecurity severely hampered humanitarian assistance and access to certain areas, particularly in West Darfur. Problems remained for free and safe passage of relief supplies and access by impartial humanitarian organizations providing relief assistance. The government undertook to issue entry visas for humanitarian workers within 48 hours; however, in May there were several delays lasting months for the issuance of such visas. Additionally in May entry and exit visas took longer than two weeks causing delays and disruptions to humanitarian programs.

The government imposed several impediments to humanitarian agency operations. For example, in April the government's Humanitarian Action Committee (HAC) requested agencies to refrain from interviewing or selecting staff unless they used a five-person selection panel and had HAC officials present, significantly delaying the hiring of new staff in Darfur.

The government continued to harass humanitarian workers and detain them on various arbitrary rules and requirements without prior notification. On March 17, government officials at Nyala airport demanded a registration fee for the humanitarian organizations to operate in the area, which was not included in the established procedures. On October 23, the UN reported that government police and national security officials forced their way into an international NGO's compound at Kalma and arrested two national staff members without apparent cause. The government deferred renewing the Norwegian Refugee Council's mandate to operate Kalma IDP Camp for several weeks, but restored the authorization on November 6. There were frequent reports of government attempts in Darfur forcibly to return persons to their homes (see section 2.d.). On August 15, police and military forces entered the Bela IDP camps in North Darfur and attempted forcibly to relocate residents with an excessive use of force, including gathering the men in the area and beating them with sticks, then burning their huts. On August 16, in Shikan squatter camp, which held hundreds of IDPs, the government without prior notification forcibly relocated hundreds of families to desert areas outside Khartoum devoid of services. Typically police arrived early in the morning, surrounded the area, and announced relocation without disclosing the destination. Residents who did not follow orders were reportedly beaten and their houses and possessions burned.

Arab militias and rebel groups in Darfur committed numerous abuses during the year. For example, on October 8, Arab militias killed four Nigerian AMIS peacekeepers and two civilian contractors near Menawasha. On October 9, a breakaway group of JEM forces (JEM-F) ambushed AMIS peacekeepers in Tine, Northern Darfur State and detained 35 AMIS personnel whom they released the same day. On April 4, JEM forces released unharmed three national staff members of the Adventist Development and Relief Agency International whom they had captured in South Darfur in December 2004.

While there were no reports of child conscription into the government military, there were reports that government and allied militias conscripted children and accepted children as soldiers and reports of children participating in hostilities in northern Darfur (see section 5). Rebel forces attacked commerce on the roads, including humanitarian aid shipments, and seized goods, vehicles, and persons, including government officials and humanitarian aid workers. On October 31, two Swiss Foundation for Mine Action landmine removers were killed on the road from Juba to Nimule.

Rebel forces and bandits also obstructed the flow of humanitarian assistance to the Darfur region and were responsible for attacks on humanitarian workers. On July 26, the SLA claimed that the town of Korma was under its control and stated that the area was in urgent need of assistance but that vehicles carrying humanitarian supplies would not be allowed to pass through the area without sharing the supplies. On August 20, the SLA robbed a convoy of four AMIS trucks near El Fasher, Darfur.

There were no reports that the government prosecuted or otherwise penalized attacking militias or made efforts to protect civilian victims from attacks. Government forces provided logistic and transportation support, weapons, and ammunition to progovernment militias throughout the country.

The government controlled the country's urban areas, although the South was in transition with the major cities reverting to Government of South Sudan control after the 21-year civil war. In the West the government controlled the major towns; however, the rebel forces at times controlled the rural areas. In the East the government controlled the major cities; however, the National Democratic Alliance, an opposition movement, controlled the Hamesh Koreib enclave in the East.

After the signing of the CPA, violence in the South decreased, but insecurity continued due to militia activity. Government forces routinely killed, injured, and displaced civilians, and destroyed clinics and dwellings intentionally during offensive operations. There were confirmed reports that government-supported militia intentionally attacked noncombatant civilians, looted their possessions, and destroyed their villages.

The CPMT, located in Rumbek, Malakal, and Khartoum, investigated numerous violations and found that both sides committed human rights abuses. The CPMT substantiated numerous reports in the southern war zone that militias allied with the government continued to limit the freedom of movement of returning IDPs to the South by illegally extorting taxes to pass through areas under their control. The CPMT ceased operations in September following the expiration of its mandate.

There were a few reports that SPLM/A soldiers and associated militias continued to kill, rape, injure, loot, and displace persons in rural areas of the South; however, the incidence of such abuse declined throughout the year due to the establishment of some local governments under the CPA. On November 23, six SPLM soldiers robbed one aid worker's family and beat up a civilian. The CPMT indicated that on April 28, government-allied militia arrested and detained a civilian who could not afford to pay the illegal tax imposed upon him by militia soldiers in Upper Nile.

The SPLM/A released approximately 500 prisoners of war (POWs) within their territories during the year. The government did not acknowledge holding any POWs; the SPLM alleged that government-held POWs were killed during the years of fighting.

There were credible reports of SPLM/A and SLA taxation and theft of relief supplies. The SPLM/A leadership repeatedly committed itself to eliminating these practices; however, it appeared unable consistently to enforce compliance with those commitments by its forces in the field.

The UN reported that at least 75 persons were killed or injured by landmines previously laid by the government to protect garrison towns and from landmines laid by the SPLM/A and its allies during the war. There were no reports of new mines laid in the South. Landmines were used in the Darfur conflict. On April 16, the detonation of unexploded ordinance killed two children in West Darfur.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of thought, expression, and of the press “as regulated by law”; however, the government severely restricted these rights in practice. On July 9, the government lifted the emergency laws, thereby ending official censorship, but it continued to censor print media. Journalists practiced self-censorship.

Individuals could not publicly criticize the government without reprisals, such as harassment.

There were many daily newspapers, mainly in urban areas, reflecting somewhat differing political views. Several newspapers also reprinted articles from the international press, some of which were critical of government policies. There was one formally government-controlled newspaper in Arabic and one in English, although security services also controlled other newspapers. A number of independent publications were under intensive scrutiny during the year and experienced intimidation, interruption, and arrest of their editors. The English-language press complained of prejudice, noting that the Arabic test required of all accredited journalists was much more difficult than the English test. Many Anglophone journalists thus could not report or had to do so unofficially. For example, the *Khartoum Monitor* employed both Arabic- and English-speaking journalists so that the unaccredited English-speakers could translate articles written by their accredited Arabic-speaking colleagues who could not write in English.

The government directly controlled radio and television and required that they reflect government policies. Television has a permanent military censor to ensure that the news reflected official views. Some foreign radio broadcasts were available in the country. A private FM radio station, which began broadcasting music in Khartoum in 2004, continued to operate. Despite the government's license requirement and the high price of satellite dishes, citizens had access to foreign electronic media; the government did not jam foreign radio signals. In addition to domestic and satellite television services, there was a pay cable network, which directly rebroadcast uncensored foreign news and other programs.

Foreign journalists were allowed access to Darfur. Several journalists and photographers were detained for photographing slums or taking pictures without a license; however, all were quickly released, and none were charged with any crimes.

Government security harassed, intimidated, and arrested journalists. For example, on May 4, the *Al Wafaq* editor-in-chief faced criminal charges of insulting reli-

gious creed when he republished an article with contentious assertions regarding the origins of the Prophet Mohammed. The National Press Council, which was directly responsible to the president, suspended the journalist's publishing license for three days, and the criminal court fined the newspaper \$3,200 (SDD 732 thousand) and suspended its publication for three months.

Unlike in the preceding year, there were no reports that the government summoned editors of newspapers and detained them all day so that they could not do their work.

The National Press Council applied the press law and licensed newspapers, set press policy, and responded to complaints. In the event of a complaint, it could warn a newspaper or suspend it indefinitely and suspend journalists for up to two weeks. The council consisted of 21 members: 7 selected by the president; 5 from the National Assembly; 7 directly elected by journalists from the Journalists' Union; and 2 selected by leaders of the Journalists' Union, which observers considered to be government-controlled. The National Press Council suspended journalists and newspapers during the year.

The government exercised control of news reporting, particularly of political topics, the war, and criticism of the government—particularly regarding government actions and policies in Darfur through the National Press Council and security forces. For example, on May 21, *The Khartoum Monitor* was suspended for a day because it intended to publish information and an editorial about the Soba Aradi riots. Security forces informed the *Monitor* that they would review all articles before publication and would remove any objectionable material. On June 12, the National Press Council notified the newspaper that its license had been revoked stemming from a 2003 Supreme Court decision in a license revocation special court proceeding of which the newspaper had been unaware.

On August 6, security forces prevented publication of two Arabic-language daily newspapers and confiscated all the copies of the newspapers, reportedly because of their criticism of the government's handling of the August riots after the death of First Vice President Garang.

During the year the National Security Office imposed restrictions on press freedom by suspending publications, confiscating printed editions, conducting publication censorship, and restricting government advertising to progovernment media only. The office targeted newspapers *Al-Ayam Al-Wafaq*, *Al-Sahafa*, *Al-Wan*, *Al-Watan*, and the *Khartoum Monitor*, often citing security reasons for its censorship.

The government did not restrict access to the Internet.

The government restricted academic freedom. In public universities, the government appointed the vice chancellors, who were responsible for administering the institutions. The government also continued to determine the curriculum. While many professors lectured and wrote in opposition to the government, they exercised self-censorship. Private universities were not subject to direct government control; however, in some cases, professors also exercised self-censorship. Nonetheless many university professors in exile returned to the country.

The government continued to harass university student groups. The government harassed student unions, took their files, destroyed their computers, and arrested and detained their members.

Unlike in previous years, the SPLM/A and the umbrella opposition National Democratic Alliance permitted journalists to report on their activities (see sections 1.c. and 2.b.), and there were no reports that the SPLM/A restricted freedom of speech among populations under its control.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—Although the constitution provides for freedom of assembly, the government severely restricted this right in practice. The government banned all rallies and public demonstrations in the country and issued no permits authorizing such rallies. The authorities generally permitted only government-authorized gatherings and routinely denied permission for or disrupted gatherings they perceived were politically oriented. Before July 9, the government used the state of emergency as an excuse to restrict gatherings; after July 9, the government continued to restrict demonstrations under the pretext of security concerns for drivers and pedestrians.

Islamic orders associated with opposition political parties, particularly the Ansar (the Umma Party) and Khatimia (the Democratic Unionist Party), continued to be denied permission to hold large public gatherings during most of the year. On April 6, riot police attacked Umma party members meeting at their party headquarters; four party members were detained for several hours before being released. Govern-

ment security agents occasionally attended opposition political meetings or summoned participants to security headquarters for questioning after political meetings.

Security forces used excessive force, including beatings, tear gas, and firing of live ammunition to disperse unapproved demonstrations. For example, on January 26, government security forces in Port Sudan fired live ammunition at participants in peaceful demonstrations held by the Beja Congress, killing 20 persons; attacked houses outside the demonstration area; and reportedly threw grenades. On April 11, army and police fired on student demonstrators protesting rigged student elections at Deling University, killing student Nagemeldin Gafar Adam Eisa. Subsequently police fatally injured Khalid Mohamed Nour, a student at Neilien University in Khartoum who was demonstrating against the killing at Deling University.

Authorities took no action against security forces that used excessive force.

Freedom of Association.—The law provides for freedom of association, but the government severely restricted this right in practice. Although there were 20 officially registered political parties, the law effectively prohibits traditional political parties linked to armed opposition to the government. The Political Parties Act allows some formerly banned political parties to resume their activities, but the parties were required to notify the registrar in writing to participate in elections. Observers believed that the government controlled professional associations.

The government continued to harass some opposition leaders who spoke with foreign organizations or embassies.

c. Freedom of Religion.—While the constitution provides for freedom of religion, the government continued to place many restrictions on non-Muslims, non-Arab Muslims, and Muslims from tribes or sects not affiliated with the ruling party. The government, which came into power with a goal of Islamization, treated Islam as the state religion, declaring that Islam must inspire the country's laws, institutions, and policies. While in general non-Muslims were allowed to worship freely in their places of worship, authorities continued to restrict the activities of Christians, followers of traditional indigenous beliefs, and other non-Muslims, as well as certain Islamic groups.

Religious organizations and churches were subject to the same restrictions placed on nonreligious corporations. Although the law requires religious groups to register to be recognized or to assemble legally, registration reportedly was no longer necessary, and churches, including the Catholic Church, declined to register.

There were reports that security forces harassed and at times threatened to use violence against persons on the basis of religious beliefs and activities; it was unclear whether the harassment was for religious or political reasons.

The use and construction of houses of worship required government approval. Applications to build mosques generally were granted in practice, but applying to build churches was more difficult, and the last permit was issued around 1975. The construction of small churches continued with owners registering the land for personal not church use. The guidance and endowment minister stated that his ministry had granted permission for new places of worship but that the local authorities denied permission based on local criteria, such as prohibitions on construction within a certain radius of a similar church or the requirement of a minimum number of worshippers in the locality for the proposed church.

While the law permits non-Muslims to convert to Islam, conversion by a Muslim is punishable by death. In practice authorities usually subjected converts to intense scrutiny, ostracism, and intimidation, and encouraged them to leave the country, and there were no reports of conversion punished by death.

Although some non-Muslims converted to obtain or keep a job, for promotions and job advancement, or for other social services or benefits, there was no evidence of forced conversions during the year.

PDF trainees, including non-Muslims, were indoctrinated in the Islamic faith. In prisons and juvenile detention facilities, government officials and government-supported Islamic NGOs pressured and offered inducements, such as early release, to non-Muslim inmates to convert. Some persons in the government-controlled camps for IDPs reportedly at times were pressured to convert to Islam. Children, including non-Muslim children, in camps for vagrant minors were required to study the Koran, and there was pressure on non-Muslim children to convert to Islam.

Christian religious workers, including priests and teachers, like almost all visitors, experienced delays in getting visas to visit the country. The visas were generally issued, sometimes after very lengthy delays or after the person could no longer travel.

Muslims could proselytize freely in government-controlled areas, but non-Muslims were forbidden to proselytize.

Children who were abandoned or whose parentage was unknown—regardless of presumed religious origin—were considered Muslims and could be adopted only by Muslims.

In SPLM/A-controlled areas, Christians, Muslims, and followers of traditional indigenous beliefs generally worshiped freely; however, many of the region's Muslim residents had departed voluntarily over the years. Although the SPLM officially favored secular government, Christians dominated the SPLM. Local SPLM authorities often had a very close relationship with local Christian religious authorities.

Societal Abuses and Discrimination.—Some non-Muslim businessmen complained of petty harassment and discrimination in awarding of government contracts and trade licenses. Christians reported pressure on their children in school; teachers and media characterized non-Muslims as non-believers. There also were reports that some Muslims received preferential treatment regarding limited government services, such as access to medical care, and in court cases involving Muslim against non-Muslim. However, non-Arab Muslims and Muslims from tribes and sects not affiliated with the ruling party, such as in Darfur and the Nuba Mountains, stated that they were treated as second-class citizens and were discriminated against in government jobs and contracts in the North and government-controlled southern areas. For example, the employment application of the Ministry of Energy and Mining emphasizes nationality, creed, and tribe; Muslims associated with the NCP were given preference in government employment.

There were few, if any, members of the Jewish community. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, but the government restricted them in practice.

Movement generally was unhindered for citizens outside the war zones; however, before the lifting of the emergency laws on July 9, travelers who failed to produce an identity card at checkpoints risked arrest. After July 9 road checkpoints were removed. At times foreigners needed government permission for domestic travel outside of Khartoum; such permission could be difficult to obtain and was sometimes refused. Foreigners must register with the police on entering the country, obtain permission to move from one location to another, and reregister at each new location within three days of arrival.

Although foreign NGO staff more easily obtained entry visas and work or travel permits for Darfur, there were numerous reports of continuing delays and restrictions (see section 1.g.). The government generally implemented its policy of issuing humanitarian visas within 48 hours, but nationals of specified countries encountered difficulties in obtaining visas to work with NGOs.

The government detained persons, particularly opposition political figures, at the airport and prevented them from traveling due to "security concerns." For example, in March Ali Hussan Dossa, a member of the Darfur Forum for Dialogue and Peaceful Co-Existence, was denied permission to leave the country. After the signing of the peace agreement, the minister of interior announced the cancellation of the lists of persons that should be denied exit visas.

Women cannot travel abroad without the permission of their husbands or male guardians, but this prohibition was not enforced strictly for the Bashir-led NCP members.

The law prohibits forced exile, and the government did not use it. Opposition leaders remained in self-imposed exile in Cairo, Asmara, and other locations during the year.

Since the January 9 CPA signing, the SPLM has not restricted the freedom of movement among populations under its control. The SPLM and government-related militias enforced illegal taxation for citizens entering or leaving the area under their control. For example, the CPMT concluded that government-aligned militias maintained checkpoints illegally to collect taxes from local residents and returning IDPs in Abyei. Insurgent movements in the South also required foreign NGO personnel to obtain permission before traveling to areas under their control; however, the insurgents generally granted such permission. NGO workers who have worked in government-held areas encountered problems receiving permission to work or travel in insurgent-held areas.

Internally Displaced Persons (IDPs).—There were estimates that up to five million IDPs due to the civil war. The UN estimated that at least 1.9 million persons had been displaced by the conflict in Darfur and that another 210 thousand had fled to Chad. Tens of thousands of persons, largely southerners and westerners displaced

by famine and civil war, continued to live in squatter slums around Khartoum. Darfur IDPs have not returned in any significant numbers to their place of origin, although small-scale spontaneous returns to certain villages occurred.

There were frequent reports of abuses committed against IDPs, including rapes, beatings, and attempts by the government to forcibly return persons to their homes (see section 1.g.). There were credible reports that the government harassed IDPs in Darfur who spoke with foreign observers, especially high-profile foreigners, demanding to know the content of their discussions. On May 31, security forces harassed UN Secretary General Kofi Annan's translator after Annan met with rape victims in Darfur. The UN reported that IDPs lived in a climate of fear.

The government occasionally blocked commercial and road access to IDP camps, purportedly for security reasons. Following riots in Darfur's Kalma camp on May 19, the government banned all commercial and motorized traffic linking the camp to Nyala town. The UN noted that the blockade prevented "the flow of critical goods and materials into the camp" and violated international human rights and humanitarian law. On December 15, the governor of South Darfur lifted the Kalma camp commercial ban.

Insecurity in Darfur, especially outside of IDP camps, restricted IDPs freedom of movement; women and girls who left the town risked sexual violence (see section 1.g.).

The government forced or coerced IDPs to return to their villages by promising food and money; however, most IDPs who returned to the villages to receive the assistance then returned to the IDP camps.

The UNHCR reported that approximately 515 thousand Sudanese refugees resided in neighboring countries, largely due to the conflict in the South; approximately 223,500 of these refugees were in Uganda. Improved security in the South increased the return of displaced populations into areas of origin that were severely affected by the war and lacked basic services. A number of refugees and displaced persons voluntarily returned to the country during the year, particularly to the Nuba Mountains region. At times local militias subjected the displaced populations returning to the South to illegal taxation and forced conscription.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has not established a system for providing protection to refugees. In practice the government generally provided protection against *refoulement*, the forced return of persons to a country where they feared persecution. The government also granted refugee status or asylum, but there was no standard determination procedure, and government officials reportedly were unresponsive to applications for refugee status. The government cooperated with the UNHCR and other humanitarian assistance organizations in assisting refugees and asylum seekers.

According to the UNHCR, there were approximately 145 thousand refugees in the country, primarily from Eritrea, Ethiopia, Chad, Uganda, the Democratic Republic of the Congo, and Somalia. Approximately 110 thousand refugees were in camps, and the rest were scattered in urban areas throughout the country. The government also provided temporary protection to individuals who might not qualify as refugees under the 1951 convention/1967 protocol, but no statistics were available for the year.

Child refugees did not receive free primary school education nor were they treated as citizens as required by the UN convention. Refugees were vulnerable to arbitrary arrests, harassment, and beatings because applicants did not receive identification cards while awaiting government determination of refugee status. Refugees could not become resident aliens or citizens, regardless of their length of stay. Refugees were not entitled to work permits.

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

Although the constitution provides citizens the right to change their government peacefully, under the January CPA between the government and the SPLM, all governmental positions are appointive until the national elections scheduled to be held no later than 2009. Effective July 9 the state of emergency was lifted except in Darfur and in the Kassala and Red Sea states.

The interim constitution establishing the GNU, adopted on July 6, provides for power sharing nationwide between the NCP and the SPLM. A three-member presidency heads the government and consists of a president, Omar Hassan El-Bashir (NCP); a first vice President, Mayardit Salva Kiir (SPLM); and a vice president, Ali Taha (NCP). A bicameral legislature is composed of the 450-member National Assembly and 52-member Council of States. Legislative and cabinet positions are allo-

cated by a CPA-specified formula that reserves 52 percent of the positions for the NCP, 28 percent for the SPLM, 14 percent for northern opposition parties, and 6 percent for southern parties. GNU members took office on September 22, and on October 23, Salva Kiir Mayardit, the country's first vice president and president of the Government of Southern Sudan (GOSS), appointed the cabinet of the GOSS. On September 21, Kiir appointed governors of the 10 states of southern Sudan, and each southern state also formed its legislative assembly with 48 members allocated proportionally as stipulated in the CPA: 70 percent to the SPLM, 15 percent to the NCP, and 15 percent to other southern political forces. Southern Sudan's legislative assembly approved an interim constitution on October 24, which President Kiir signed on December 5.

Elections and Political Participation.—Presidential and parliamentary elections were last held in 2000; they were marked by serious irregularities, including official interference, electoral fraud, insufficient opportunities for voters to register, and inadequate election monitoring. All major opposition parties boycotted the elections.

The law allows the existence of political parties but prohibits parties linked to armed opposition to the government, and the government routinely denied permission for and disrupted gatherings viewed as politically oriented (see section 2.b.). Security forces arrested, detained, and on occasion beat political opponents (see sections 1.c. and 1.d.). During the year opposition parties became more vocal in the demanding inclusion, and the government sought the support of additional parties to add legitimacy to the CPA. Hassan al-Turabi's PNC remained a proscribed political organization.

The government continued summarily to dismiss military personnel as well as civilian government employees whose loyalty it considered suspect in a process called "separation for public interest." Authorities fired or arrested military officers either because they were from Darfur or did not support the ruling party strongly enough.

The president appointed the governors and senior officials of the 26 states in the country's federal system. These appointees were not necessarily representative of their constituencies.

Women had the right to vote. There were approximately 70 women in the 450-person National Assembly, 3 national women state ministers and 1 woman minister in the GNU.

As provided by the CPA, southerners hold 28 percent of the government seats.

Government Corruption and Transparency.—The NGO Transparency International reported a perception of severe corruption. Relatives of high government officials often owned companies that did business with the government; in turn they usually received kickbacks for government business. Women caught brewing alcohol could pay police officers not to arrest them.

There were no laws providing for public access to government information, and the government did not provide such access.

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

Various local human rights groups were active in the country, but they suffered from government harassment, particularly those groups reporting on sexual gender-based violence (SGBV). The government was generally uncooperative with and unresponsive to domestic human rights groups. Major local NGOs included the Sudan Organization Against Torture (SOAT) and Sudan Development Organization. In an effort to silence them, the government often charged human rights groups with spreading false information. For instance NGOs continued to be harassed in Darfur with the intimidation of national staff and the detention and arrests of workers treating victims of sexual violence. Government security forces often detained members of humanitarian staff under the Criminal Act, usually on charges of spreading false information. For example, on May 30 and 31, security forces arrested the Doctors Without Borders (MSF-H) director and its Darfur coordinator on charges of spreading false information, stemming from MSF-H's report on SGBV in Darfur; the charges were dropped on June 19.

In August the government accused SOAT of spreading false information through its press release about arrests during the August Khartoum riots. There was no action taken against SOAT.

The government often resisted the heightened levels of international NGO scrutiny generated by events in Darfur. At the beginning of the year, the government made it difficult for international NGOs to operate in Darfur by denying visas, holding up the clearance of equipment and supplies at customs, denying permission to travel within the country, and harassing the humanitarian community; visa issuance and access for humanitarian workers improved later in the year (see section 1.g.).

The government's HAC, which regulates humanitarian efforts in the country, continued to create difficulties for NGOs operating in Darfur. All NGOs must register with HAC to operate in the country. On March 21, the HAC assumed a role in hiring NGO national staff, which caused major delays in hiring new staff for Darfur (see section 1.g.). HAC applied rules for NGOs inconsistently, often changing them without prior notification. An August 4 presidential decree required international NGOs to reregister and did not provide applicants to appeal a denial.

Rebels reportedly abducted and on rare occasions killed NGO workers and contractors, particularly in Darfur. On July 12, the UN reported that SLA members seized a government vaccination team's vehicle and detained the NGO driver for four days. On May 1, armed men alleged to be rebels from the Eastern Front hijacked a Sudanese Red Crescent vehicle in Port Sudan, killing two employees and injuring another. Banditry and robbery of relief convoys in Darfur increased. For example, on June 11, unknown perpetrators in Darfur robbed four UN-subcontracted trucks and beat the drivers.

The UN also sent different teams to the country to investigate the situation in Darfur. For example, the UN High Commissioner for Human Rights, the UN Special Adviser on the Prevention of Genocide, the UN Special Rapporteur on the Situation of Human Rights in Sudan, and the UNHCR visited the country during the year. The UN Mission in Sudan deployed approximately human rights observers to Darfur to monitor and investigate the human rights situation and events. The UN special rapporteur on the situation of human rights in Sudan and The UN special advisor on the prevention of genocide issued reports to the UN on the human rights situation in the country.

On March 31, the UN Security Council referred Darfur to the chief prosecutor for the International Criminal Court (ICC). On June 6, the chief prosecutor opened an investigation into Darfur without the cooperation of the government, which refused to hand over any criminals associated with the conflict to the ICC.

The Advisory Council for Human Rights, with representatives of human rights offices in 22 ministries and agencies, is the government's major focal point for the promotion and protection of human rights. The council provided lists of detained individuals to the international community.

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

The law prohibits discrimination based on race, gender, or religious creed, but discrimination against women and ethnic minorities continued. Mechanisms for social redress, particularly with respect to violence against women and children, were ineffective.

Women.—There were no laws specifically prohibiting domestic violence. Violence, including spousal abuse, against women was common, although there were no reliable statistics on its prevalence. Women who filed claims were subjected to accusations of lying or spreading false information, harassment, or detention, which made many women reluctant to file formal complaints, although such abuse constituted grounds for divorce. The police normally did not intervene in domestic disputes. The government launched its Violence Against Women Action Plan in November; the program included awareness posters and a media campaign of zero tolerance for violence against women, increased the number of female police officers, and expanded training for police in Darfur. Displaced women from the South were particularly vulnerable to harassment, rape, and sexual abuse while returning home.

Women in Darfur were particularly vulnerable to abuse and rape (see section 1.g.). Many victims did not report their cases either to family or authorities for fear they would be punished or arrested for "illegal pregnancy." Local authorities often exacerbated the problem by requiring rape victims to file a police report before receiving medical treatment, despite an August 21 decree that waived the requirement. On October 24, the minister of justice formally declared that victims need not file a police report to receive medical treatment. UN and NGO sources confirmed that the decree was not regularly observed because police at the working level were not informed of it. Women distrusted the police and rarely filed a police report. Although slow to acknowledge the magnitude of violence against women, in December the government did participate in the UN's "16 Days of Activism Campaign" to combat violence against women, which included multiple workshops.

The police arrested unmarried pregnant women who claimed to have been raped. Unless she could provide proof of the crime, a rape victim could be charged with the capital offense of adultery. For example, from August 17 to 19, police in Mukjar, Darfur, detained 18 pregnant women for adultery and physically abused them. The victims said that the police slapped and kicked them and called them prostitutes. Most victims were released after the first night of detention but were forced to pay \$30 (10 thousand dinars).

The punishment for rape under the law varies from 100 lashes to 10 years' imprisonment to death. Spousal rape is not addressed. In most cases convictions were not publicized; however, observers believed that sentences often were less than the legal maximum. On June 7, soldiers in Southern Darfur State who allegedly raped two girls on May 2 were convicted of the lesser offense of gross indecency rather than rape; the judge stated that, under the Shari'a and the Evidence Act, a conviction of rape required the testimony of four witnesses despite the presentation of clear medical evidence. Nonetheless, during the year there were two convictions for rape in Darfur (see section 5).

FGM remained widespread, particularly in the North, although it was becoming less common as a growing number of urban, educated families abandoned the practice. In a compromise with tradition, some families adopted clitoridectomy, the least severe form of FGM, as an alternative to infibulation. Although no form of FGM was illegal, the health law prohibited doctors and midwives from performing infibulation. The government did not support FGM and actively campaigned against it, as did the SPLM in its zone of control. On December 6, a young girl, Inaam Abdel Wahab, died from FGM. One local NGO worked to eradicate FGM.

Prostitution is illegal but widespread throughout the country.

Trafficking in women remained a problem (see section 5, Trafficking).

While no law specifically prohibits sexual harassment, the law does prohibit gross indecency, which is defined as any act contrary to another person's modesty. The penalty for gross indecency is imprisonment of up to 1 year and 40 lashes. Harassment reportedly occurred, although reliable statistics were not available. There were frequent reports of sexual harassment by police in Darfur and elsewhere.

Some aspects of the law discriminated against women, including many traditional law practices and certain provisions of Shari'a as interpreted and applied by the government. In accordance with Islamic law, a Muslim woman has the right to hold and dispose of her own property without interference, and women are entitled to inheritance from their parents. However, a widow inherits one-eighth of her husband's estate; of the remaining seven-eighths, two-thirds goes to the sons and one-third to the daughters. It is much easier for men than for women to initiate legal divorce proceedings.

Since, under Islamic law, a non-Muslim woman takes on the religion of her husband at marriage, a Muslim man may marry a Christian or Jew, and their children will be considered Muslim. The same is not true for a Muslim woman, who cannot legally marry a non-Muslim unless he converts to Islam. This prohibition usually was neither observed nor enforced in areas of the South or among Nubans (most of whom are Muslims).

Women cannot travel abroad without the permission of their husbands or male guardians; however, this prohibition was not enforced strictly for NCP members. To obtain an exit visa, children must receive the permission of their father or their paternal uncle. Women cannot apply for exit visas for their children.

Although women generally were not discriminated against in the pursuit of employment, they were not legally permitted to work after 10 p.m., in theory limiting their employment opportunities. Nonetheless, many women did work after 10 p.m., and in official positions such as airport security. Women were accepted in professional roles; more than half the professors at Khartoum University were women.

Various governmental bodies have decreed that women must dress modestly according to Islamic standards, including wearing a head covering, but police rarely enforced such decrees. Women often appeared in public wearing trousers or with their heads uncovered.

A number of women's groups were active, focusing on a wide range of social and economic issues.

Children.—The government's commitment to children's rights and welfare was uneven. While education was legally compulsory through grade eight, UNICEF reported that only half of school-age children attended primary school. The law provides for free basic education, but students have been expelled from class for failing to pay school fees. On August 8, the government issued a decree prohibiting dismissal of students for nonpayment of school fees. There were wide educational disparities among states and sometimes between genders, particularly in the eastern and western regions; for example, enrollment was 78 percent in Khartoum State and only 30 percent in the eastern part of the country. In the North boys and girls generally had equal access to education (enrollments of 50 and 47 percent, respectively), although girls were more affected by early marriage and the fact that many families with restricted income chose to send sons and not daughters to school. In the urban areas of the South, class size reached 120 students, with fewer than 27 percent of primary school age children in basic education and a basic education gender disparity of 3 boys for each girl.

UNICEF reported that educational access for school-age IDP children in Darfur improved considerably compared with the preceding year. UNICEF, supported education for nomadic groups, also reported a significant increase in nomadic group education.

There were significant inequalities in access to health services for children living in different areas of the country. UNICEF reported an under-5 mortality rate of 93 per 1,000, a low birth weight rate of 31 percent, and immunization rates of approximately 50 percent. In the South, infant mortality was 150 per thousand births, and approximately 21 percent of children under age 5 suffered severe malnutrition.

A large number of children suffered abuse, including abduction, enslavement, and forced conscription (see sections 1.b. and 5, Trafficking).

FGM on girls was performed commonly in rural areas and less in the cities (see section 5, Women).

The law establishes the legal age of marriage as 10 for girls and 15 or puberty for boys. There were no reliable statistics on the extent of child marriage.

Child prostitution, trafficking of children, and sexual abuse of children remained problems, particularly in the South (see section 5, Trafficking). Children engaged in prostitution for survival, usually without third-party involvement.

Government-allied militias and rebel forces conscripted or accepted young men and boys into the allied militias in Darfur (see section 1.g.). Although rebel factions forcibly conscripted citizens, including children, the SPLM/A also continued to demobilize child soldiers.

Unlike in the previous year, there were no reports that southern militias recruited child soldiers. Credible observers stated that southern tribal chiefs delivered children to the militias for recruitment goals in an effort not to give up their able-bodied fighters. The ICRC and UNICEF worked to remove child soldiers from the South.

Child labor remained a problem mainly in the informal sector (see section 6.d.). In the South children, particularly girls, often worked in the fields.

The government operated "reformation camps" for vagrant children. Police typically sent homeless children who had committed crimes to these camps, where they were detained for indefinite periods. Health care and schooling at the camps generally were poor, and basic living conditions often were primitive. All of the children in the camps, including non-Muslims, must study the Koran, and there was pressure on non-Muslims to convert to Islam (see section 2.c.). In the camps, the PDF often conscripted teenage males (and, in the South, some females). Conscripts faced significant hardship and abuse in military service, often serving on the frontline. There were reports that abducted, homeless, and displaced children were discouraged from speaking languages other than Arabic or practicing religions other than Islam.

Trafficking in Persons.—Although the law prohibits slavery and forced labor, the law does not specifically address trafficking in persons, and there were reports that persons were trafficked from and within the country. There were no reports during the year that government and government-supported militias abducted women for use as domestic servants, forced labor, or concubines (forced marriages) due to the continuation of the North-South cessation of hostilities. There were some reports that the abduction of women and children continued in the South due to tribal clashes.

Shari'a and the State of Emergency Law prohibit all forms of sexual exploitation, and penalties include fines and imprisonment. However, there were no prosecutions under these laws during the year. The government's National Council of Child Welfare, working with immigration officials, was responsible for combating the trafficking of camel jockeys.

There were no informed estimates on the extent of trafficking, either for jockeys or for sexual exploitation. There were credible reports that tribal leaders with government connections transported children to the Persian Gulf to be used as jockeys in camel races or as laborers. Despite the absence of a signed agreement with the government, UNICEF cooperated with the government to repatriate child camel jockeys and indicated that 16 children had been repatriated since May. More than 300 children were repatriated from the United Arab Emirates and Qatar through the combined efforts of governments and NGOs.

There were credible reports that intertribal abductions of women and children continued in the South. Victims frequently became part of the new tribal family, with most women marrying into the new tribe; however, some victims were used for labor or sexual purposes. As intertribal fighting in the South decreased, the number of abductions also appeared to decline. The government acknowledged that abductions occurred and that abductees were sometimes forced into domestic servitude and sexual exploitation. The CEAWC and its 22 joint tribal committees in-

investigated abduction cases and sought to facilitate the safe return of victims. CEAWC did not pursue legal action against abductors. CEAWC reported that since 1999, 1,354 abductees were reunited with their families. Credible sources noted that some of the CEAWC-facilitated reunions were forced repatriations of persons over age 18 against the wishes of the abductees.

During the past 20 years, the LRA kidnapped more than 20 thousand Ugandan children, took them back to the southern part of the country, and forced them to become sex slaves, pack animals, or soldiers. Many of the victims were killed. The LRA also abducted citizens while raiding towns in the South. According to SPLM/A officials, on November 21, suspected LRA rebels abducted 11 people in Western Equatoria and were suspected of killing 5 civilians and abducting 25 persons near Maridi. The government permitted the Ugandan army access to the South to pursue the LRA. Although Ugandan military operations significantly reduced LRA numbers, the LRA continued to operate in the South and to hold child abductees; such LRA attacks restricted humanitarian activities.

The government assisted some victims of trafficking; through CEAWC it provided clothing, food, shelter, and transportation to victims.

The government conducted antitrafficking public information and education campaigns at the national, state, and local levels.

Persons with Disabilities.—While the law does not specifically prohibit discrimination against persons with disabilities, it does stipulate that “the state shall guarantee to persons with special needs the enjoyment of all the rights and freedoms set out in the constitution, access to suitable education, employment and full participation in society.” The government did not discriminate against persons with disabilities but has not enacted any special legislation for persons with disabilities, such as mandating accessibility to public buildings and transportation. Credible sources noted that prisoners with mental disabilities were chained 24 hours per day. The law requires equal educational opportunities for persons with disabilities.

National/Racial/Ethnic Minorities.—The population was a multi-ethnic mix of more than 500 Arab and African tribes with numerous languages and dialects. Northern Muslims, numbering approximately 16 million persons, traditionally dominated the government, while southern ethnic groups fighting the civil war (largely followers of traditional indigenous religions or Christians) numbered approximately 6 million. The fighting in Darfur was between Muslims who self-identify as either Arab or non-Arab (see section 1.g.).

The Muslim majority and the government continued to discriminate against ethnic minorities in almost every aspect of society. Citizens in Arabic-speaking areas who did not speak Arabic experienced discrimination in education, employment, and other areas.

There were occasional reports of intertribal abductions of women and children in the South, primarily in the eastern Upper Nile (see section 5, Trafficking). The abductions were part of traditional warfare in which the victor took women and children as a bounty and frequently tried to absorb them into their own tribe. There were traditional methods of negotiating and returning the women who were taken in these raids. Many of these women were raped and “chose” to “marry” their abductors, rather than return home where they would be stigmatized.

There were deaths in conflicts between ethnic groups, such as continued fighting between Dinka and Nuer or among Nuer tribes.

Other Societal Abuses and Discrimination.—Homosexuality is a crime, but no one has been prosecuted on the charge; there is societal but not official discrimination against homosexuals.

Incitement to Acts of Discrimination.—The government and government-supported militias actively promoted hatred and discrimination, using standard propaganda techniques to incite tribal violence. Credible sources noted that the government supported one tribe over another, arming certain tribal militias against other tribes.

Section 6. Worker Rights

a. The Right of Association.—Although the law provides for the right of association for economic and trade union purposes, the government denied this right in practice. The Trade Union Act established a trade union monopoly in the government. Only the government-controlled Sudan Workers Trade Union Federation (SWTUF) could function legally; all other unions were banned. The International Labor Organization (ILO) has frequently noted that the trade union monopoly contravened the principles of freedom of association. The International Confederation of Free Trade Unions continued to recognize the “legitimate” Sudan Workers Trade Union Federation—the national trade union center that functioned prior to the ban—which operated in exile.

The law does not prohibit antiunion discrimination by employers.

b. The Right to Organize and Bargain Collectively.—The law denies trade unions autonomy to exercise their right to organize or to bargain collectively. The law defines the objectives, terms of office, scope of activities, and organizational structures and alliances for labor unions. The government's auditor general supervised union funds because they were considered public money.

While labor organizing committees have the right to organize and bargain collectively, in practice the government dominated the process of setting wages and working conditions through its control of the steering committees. A tripartite committee comprising representatives of the government, the government-controlled SWTUF, and business set wages. The absence of labor legislation allowing for union meetings, the filing of grievances, and other union activity greatly reduced the value of these formal rights. Local union officials raised some grievances with employers, although few raised them with the government. There were credible reports that the government routinely intervened to manipulate professional, trade union, and student union elections (see sections 1.c. and 2.b.).

Specialized labor courts adjudicated standard labor disputes, but the Ministry of Labor has the authority to refer a dispute to compulsory arbitration.

Strikes were considered illegal unless the government granted approval, which has never occurred. In most cases employees who tried to strike were subject to employment termination; however, workers went on strike during the year and were not terminated.

There is one export processing zone located in Port Sudan, and it is exempt from regular labor laws.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices continued (see sections 5 and 6.d.).

Although the government continued to deny that slavery and forced labor existed, CEAWAC acknowledged that abductions had occurred (see sections 1.b. and 5).

Both the government and rebel factions continued to conscript men and boys into the fighting forces (see section 5).

Some SPLM/A commanders and affiliated forces continued to force southern men to work as laborers or porters. The ILO Committee of Experts reported that abduction, forced labor, and sexual slavery of women and children continued.

d. Prohibition of Child Labor and Minimum Age for Employment.—Although mandated by the constitution to protect children from exploitation, the government did not effectively do so, and child labor was a serious problem. The legal minimum age for workers was 18 years, but the law was not enforced in practice. Young children worked in a number of factories, and severe poverty produced widespread child labor in the informal and rural farming economy.

There were reports that government and allied militias conscripted children and accepted children as soldiers (see section 5). Child trafficking continued, and child prostitution was widespread (see section 5).

Child labor existed in SPLM/SPLA-held areas, particularly in the agricultural sectors. Child labor in such areas was exacerbated by lack of schools, extreme poverty, and the lack of an effective legal minimum age for workers.

e. Acceptable Conditions of Work.—The minimum wage was \$48 (SDD 12,500) per month, which did not provide a worker and family a decent standard of living. The Ministry of Labor, which maintained field offices in most major cities, was responsible for enforcing the minimum wage, which employers generally respected. Workers who were denied the minimum wage could file a grievance with the local labor ministry field office, which then was required to investigate and take appropriate action. There were reports that some workers, including postal and health workers, were not paid their regular wages. The government failed to comply with a constitutional court ruling that employees fired by the Central Bank in 2004 should receive severance pay.

Legal foreign workers had the same labor rights as domestic workers. Illegal workers had no such protections and, as a result, typically worked for lower wages in worse conditions than legal workers. Southern IDPs generally occupied the lowest paying occupations and were subject to economic exploitation in rural and urban industries and activities.

The law, which was generally respected, limits the workweek to 48 hours—an 8-hour day, with a day of rest on Friday. Overtime should not exceed 12 hours per week or 4 hours per day. There was no prohibition on excessive compulsory overtime.

Although the laws prescribe health and safety standards, working conditions generally were poor, and enforcement by the Ministry of Labor was minimal. The right

of workers to remove themselves from dangerous work situations without loss of employment is not recognized.

SWAZILAND

Swaziland is a modified traditional monarchy with executive, legislative, and limited judicial powers ultimately vested in the king (Mswati III). The king rules according to unwritten law and custom, in conjunction with a partially elected parliament and an accompanying structure of published laws and implementing agencies. The population was approximately 1.1 million. The most recent parliamentary elections, held in 2003, were not considered free and fair. Political parties continued to be banned. Political power remained largely with the king and his circle of traditional advisors, including the queen mother. The civilian authorities maintained effective control of the security forces; however, there were some instances in which security forces committed abuses.

The government's human rights record was poor, and government agents continued to commit serious abuses. The country faced a serious socio-economic situation characterized by sluggish economic performance, poverty, drought, an HIV/AIDS prevalence rate of 42.6 percent, and growing unemployment. The following human rights problems were reported:

- inability of citizens to change their government
- arbitrary killings by security forces
- police use of torture, beatings, and excessive force
- police impunity
- arbitrary arrest and lengthy pretrial detention
- infringement on citizens' privacy rights
- limits on freedom of speech and of the press
- restrictions on freedom of assembly and association
- prohibitions on political activity and harassment of political activists
- restrictions on freedom of movement
- discrimination and violence against women
- poor enforcement of women's rights
- child abuse
- trafficking in persons
- societal discrimination against mixed race and white citizens
- antiunion discrimination
- child labor

The country adopted its first constitution in 32 years when the king signed the Constitution Bill on July 26; the constitution was scheduled to take effect 6 months afterwards. It contains a bill of rights, although civil society organizations charged that the document would not protect the rights of all citizens. The government amended the Industrial Relations Act (IRA) to increase workers' rights by strengthening the role of the Conciliation, Mediation, and Arbitration Commission (CMAC).

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government and its agents did not commit any politically motivated killings; however, there were a few reports that security forces committed arbitrary killings.

On January 15, members of the Umbutfo Swaziland Defense Force (USDF) beat to death a South African murder suspect. The suspect's companion was also beaten. In late April USDF members patrolling the border with South Africa shot and killed a man and injured another suspected of smuggling an automobile across the border. At year's end the USDF was conducting internal investigations of both cases.

On May 24, Charles Mabuza and his brother Mfanzile were killed during a police raid. Family members claimed that police shot Charles in retaliation for the killing of a police sergeant by Mfanzile, but police stated that a stray bullet fired by the brother killed Charles. Police shot and killed Mfanzile when he tried to flee the scene. Police set up a commission of inquiry to investigate the shootings. On July 1, police shot and killed Mzamo Hlophe during a marijuana raid. His body was

abandoned for several hours before the police took it to a mortuary in Nhlngano. Police claimed that Hlophe's family attacked them, forcing them to withdraw without collecting the body. Police set up a commission of inquiry to investigate the shooting. Investigations of both cases were ongoing at year's end.

In January the senior magistrate appointed by the prime minister to conduct an inquest into the May 2004 death of Mandla Mathousand Ngubeni in police custody released an inconclusive report. It stated that Ngubeni was subjected to "torture of sorts, possibly suffocation by police" but did not give a specific cause of death or assign responsibility for the death. At year's end no arrests had been made.

There were no developments in the cases of the 2004 killings of three car smugglers.

There were reports of mob killings during the year. On July 24, a mob killed a man suspected of stealing three cell phones and a purse. At year's end no arrests had been made. On September 14, a mob attacked and beat Zakhele Mndzebele after he was found raping a teenage girl. The mob turned him over to police, who left him in a police van while recording witness statements instead of immediately taking him for medical treatment. He was dead upon arrival at the hospital.

Thandiwe Sellinah Simelane was arrested in September for allegedly killing her sister-in-law for practicing witchcraft. At year's end the case had been referred to the high court for scheduling, and the accused was free on bail awaiting trial.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law does not specifically prohibit such practices, although under the Prisons Act correctional facility officers may be prosecuted if they engage in such procedures; however, government officials employed them. Security forces used torture during interrogation and abused their authority by assaulting citizens and using excessive force in carrying out their duties.

There were credible reports that police beat criminal suspects and occasionally used the "tube" style of interrogation, in which police suffocate a suspect by using a rubber tube around a suspect's face and mouth. According to media reports, police also used the "Kentucky" method of interrogation, in which the arms and legs of a suspect are tied together and then the person is beaten. The government took no action against police or soldiers accused of abuse.

On May 10, a 16-year-old student was admitted to the hospital in critical condition after police detained and interrogated him for stealing a cell phone. He said that police squeezed his testicles during the interrogation. Majaha Dlamini sued a USDF member for a June 6 attack in which he sustained serious injuries on his testicles and open wounds on the back and hip. Stephen Thwala said that police suffocated him by the tube style of interrogation after his August 17 arrest for assaulting a policeman.

On September 10 and 11 in Kwaluseni, community police severely beat two men suspected of burglarizing a house before turning the suspects over to police. In addition there were credible reports that members of the community beat suspects before handing them over to police.

Mfanawenkhosi Mntshali complained of police harassment and beating when he was questioned in November on suspicion of involvement in a series of petrol bombings that targeted government buildings and residences of several officials, including that of the government's spokesperson. Between December 16 and 18, Mntshali was arrested, along with eight others, for planning or participating in the bombings. Police said the suspects were members of "banned political parties." All nine suspects were charged with high treason and sedition on December 20, and at year's end they were in custody awaiting trial.

There were no developments in the 2004 case of police beatings of Ndwandwe High School students or the 2004 case of police beating a man suspected of attacking a policeman.

Police forcibly dispersed demonstrations (see section 2.b.).

Prison and Detention Center Conditions.—Government prisons and detention centers remained overcrowded, and conditions generally were poor. There were reports of torture and that a lack of basic hygiene and unsafe sexual practices, including forced sexual intercourse between prisoners, were spreading HIV/AIDS among the prisoners. Newspapers reported on September 17 that the government's draft multi-sectoral HIV and AIDS policy would provide for the release of prisoners in the last stages of AIDS, but at year's end the policy was not final.

On May 29, more than 200 inmates at Balegane Prison Center rioted over the death of Musa Nkambule, a prisoner serving a 3-year sentence for illegal weapons and ammunitions charges. Inmates alleged that Nkambule's death was due to warden negligence.

In the sole women's detention facility, detainees were not held separate from convicts.

The government routinely permitted prison visits by diplomats, journalists, human rights monitors, and representatives of international organizations. During the year the local Red Cross visited several prisons.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, arbitrary arrest and lengthy pretrial detention were problems.

Role of the Police and Security Apparatus.—The police maintain internal security. The army is responsible for external security but also has domestic security responsibilities. Police are under the authority of the prime minister, while the USDF reports to the Ministry of Foreign Affairs.

The Royal Swaziland Police Service (RSPS), a nationwide police force, was generally professional despite inadequate resources and bureaucratic inefficiency. There were credible allegations that the force was susceptible to political pressure. The government generally failed to prosecute or otherwise discipline police officers for abuses. No independent body had the authority to investigate police abuses; however, an internal complaints and discipline unit investigated reports of human rights abuses by the police but did not release results to the public. There were no government actions, including training, to reform the RSPS. However, the government provided training to community police in the areas of investigative skills and the appropriate use of force.

Unlike in 2004, the courts did not invalidate any confessions induced through physical abuse.

Traditional chiefs had their own community police who could arrest suspects and bring them before an inner council within the chiefdom for a trial. Some community police were accused of abuses.

Arrest and Detention.—The law requires warrants for arrests except when police observe a crime being committed or believe that a suspect might flee. Detainees may consult with a lawyer of their choice, but the government pays for defense counsel only in capital cases or when difficult points of law are at issue. Detainees must be charged with the violation of a statute within a reasonable time, usually 48 hours or, in remote areas, as soon as the judicial officer appears. In general detainees were promptly informed of the charges against them, and their families had access to them.

There is a functioning bail system, and except in cases of murder and rape, suspects can request bail at their first appearance in court, which by law must take place within 48 hours of arrest. Unlike in 2004, there were no cases of suspects remaining detained after posting bail.

Arbitrary arrest was a problem. When police dispersed demonstrations that they considered unauthorized or politically motivated, they sometimes detained some of the demonstrators for several hours before releasing them without charge (see section 2.b.).

There were no reports of political detainees.

Lengthy pretrial detention was common. Police justified pretrial detention on the basis that they were collecting evidence of the crime and that releasing the detainee would allow the person to influence witnesses. In some cases this has led to repeated remands that can last for years. On June 23, Jabulani Simelane, the country's longest serving detainee, died while undergoing medical treatment. He had been in custody without trial for 11 years, charged with the murder of his father. Simelane spent most of that time in a psychiatric center.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the king has certain judicial powers. Unlike in previous years, there were no known cases where government officials attempted to influence or reverse court decisions. The lack of an independent court budget and trained manpower, inadequate levels of salary remuneration, and poor casework management remained problems for the judiciary.

There were no developments in the 2003 case against the director of public prosecutions for obstruction of justice, which was indefinitely postponed in 2004.

Judicial powers are vested in a dual system, one based on Roman-Dutch law and the other based on a system of national courts that follows unwritten traditional law and custom.

The Roman-Dutch-type judiciary consists of the Court of Appeal (the highest judicial body and composed entirely of foreign, usually South African, judges), the high court, and magistrate courts. The courts were generally claimed to be independent of executive and military control; however, the royal family has not always respected court of appeal rulings.

The Court of Appeal was reconstituted in November 2004, after a 2-year absence due to the government's refusal to comply with a 2002 court decision involving the eviction of 200 residents from 2 chiefdoms (see section 1.f.).

In March the government launched a children's court to try cases in which children were victims of sexual abuse or other crimes. Children testify from a separate room, linked by closed-circuit television to the courtroom.

Most citizens who encountered the legal system did so through the 13 traditional or "national" courts, each with a "president" appointed by the king. Authorities may bring residents to these courts for minor offenses and violations of traditional law and custom. The October 22 *Swazi News* quoted the judicial commissioner as saying that some traditional court presidents imposed fines exceeding the legal limit of approximately \$16 (100 emalangeni).

The public prosecutor legally has the authority to determine which court should hear a case, but in practice police usually made the determination. Accused persons have the right to transfer their cases from the traditional courts. Prolonged delays in trials in the magistrate court and high court were common.

Trial Procedures.—Trials are public, except in cases in which proceedings are closed to protect child crime victims. Juries are not used. Court-appointed counsel is provided at government expense in capital cases or when difficult points of law are at issue. Otherwise, defendants in magistrate courts are entitled to hire counsel at their own expense. Defendants can question witnesses against them and present witnesses in their own behalf. Defendants and their attorneys have access to relevant government-held evidence, generally obtained during pretrial consultations with the Public Prosecutor's Office. Defendants enjoy a presumption of innocence. Defendants and prosecutors have the right of appeal, up to the Court of Appeal.

In traditional courts defendants are not permitted formal legal counsel but may speak on their own behalf, call witnesses, and be assisted by informal advisors. Sentences are subject to review by traditional authorities and can be appealed to the high court and the Court of Appeal.

The king appoints traditional chiefs. The traditional courts have limited civil and criminal jurisdiction and are authorized to impose fines up to approximately \$16 (100 emalangeni) and prison sentences of up to 12 months. However, traditional courts are empowered to administer customary law only "insofar as it is not repugnant to natural justice or morality" or inconsistent with the provisions of any law in force. Accused persons are required to appear in person without representation by a legal practitioner or advocate, but the defendant may appeal the court's decision.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law requires police to obtain a warrant from a magistrate before searching homes or other premises, but at times police did not respect this requirement. Police officers with the rank of subinspector or higher have the authority to conduct a search without a warrant if they believe that evidence might be lost through the delay in obtaining a warrant. Searches without warrants occurred. For example, according to the October 6 issue of *The Swazi Observer* daily newspaper, the Lubombo regional police commander stated that since the population was not providing information about who was burglarizing the houses of Duze Primary School teachers, police would raid homesteads at random until the residents "repented." Police arrested 13 persons in the resulting raid.

There were instances in which police conducted physical surveillance on members of labor unions and banned political groups. On September 17, police officers posing as journalists attended a Swaziland Federation of Trade Unions (SFTU) seminar.

Chief Mliba Fakudze, whose eviction along with 200 other residents of 2 chiefdoms in 2000 sparked the 2002 rule of law crisis, returned to Macetjeni in April. The other ousted chief, Mtfuso Dlamini, did not return. Chief Dlamini said the other evictees were permitted to return not because of a 2002 court ruling in their favor, reinforced when the Court of Appeal was reconstituted in 2004, but rather because they finally agreed to accept the king's representative as chief. At year's end only Chief Dlamini, his family, and a few students remained in South Africa.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law does not provide for freedom of speech or of the press, and the government limited these rights in practice. Citizens criticized the government without fear of reprisal but generally did not criticize the royal family. Journalists practiced self-censorship. Police monitored some meetings (see section 1.f.).

There were two daily newspapers—one independent and one owned by Tibiyo Taka Ngwane, the king's investment company. Both newspapers covered a wide variety of sensitive topics and criticized government corruption, inefficiency, and waste. With some exceptions, the government continued to withhold its advertising from the independently owned daily newspaper.

There was one government-owned radio station and one independent radio station, which broadcast only religious programs. There was a privately owned television station, which was officially independent; however, the owner's mother was the daughter of the previous king, Sobhuza II, and its reporting favored the monarchy. The government-owned television and radio stations, the most influential media in reaching the public, generally followed official policy positions. Government broadcast facilities retransmitted Voice of America and BBC news programs in their entirety.

Private companies and church groups owned several newsletters and magazines. The government discouraged critical news coverage of the royal family. In February palace officials banned the press from taking photographs of the king's cars, following negative publicity surrounding the king's purchase of one of the world's most expensive automobiles. In May the king privately threatened journalists from the *Times of Swaziland* newspaper. He said that if reporters did not immediately cease all negative coverage of his immediate family and himself, he would shut down the newspaper. The *Times* refrained from printing any stories about the king and his immediate family for at least 10 weeks.

In November the cabinet approved a media policy drafted by the Minister of Public Information and Public Service that calls for reviewing outdated legislation.

During the first week of August a Media Institute of Southern Africa representative stated that the media were economically crippled as a consequence of an increase of civil defamation cases that resulted in high financial penalties being awarded to litigants.

In late 2004 a traditional court convicted a senator's husband of common assault and imposed a fine, following his assault of a *Times of Swaziland* reporter who implicated the senator in an extramarital affair.

There were no government restrictions on the Internet.

The practice of self-censorship and the prohibition on political gatherings restricted academic freedom by limiting academic meetings, writings, and discussion on political topics.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law does not provide for freedom of assembly, and the government restricted this right in practice. A decree prohibits meetings of a political nature, processions, or demonstrations in a public place without the consent of the police commissioner. Authorities routinely withheld permission to hold most such meetings.

During the year police forcibly dispersed several demonstrations and meetings and arrested demonstrators. For example, on January 22, police used tear gas and a water cannon to disrupt a demonstration by the banned People's Democratic Movement (PUDEMO), held to commemorate a young girl killed during a 1998 strike.

On May 12, approximately 150 members of the clergy delivered to the prime minister a petition protesting the draft constitution. Members of parliament (MPs), including the Speaker of the House, accused the church of engaging in a protest march, and King Mswati publicly censured the group.

On August 6 in Mbabane, police used tear gas and rubber bullets to disperse a rally organized by the Swaziland Youth Congress (SWAYOCO). SWAYOCO members and a few bystanders were treated for injuries. Police detained SWAYOCO Secretary Ignatius Dlamini for an hour and a half when he tried to join the rally. Police also arrested five SWAYOCO members for damaging police vehicles and charged one SWAYOCO member with sedition. He was awaiting trial at year's end.

On September 8, police intercepted a protest by one thousand first-year university students demanding government scholarships. The police fired tear gas at the students and used a water cannon to disperse the crowd. Several protesters were injured.

On November 30, the minister of health and social welfare postponed the government-sponsored World AIDS Day ceremony because it coincided with the start of the Incwala harvest festival. Other organizations held their celebrations as planned. AIDS activists and other members of the government decried the postponement in view of the pandemic in the country.

There was no action taken against security forces who forcibly dispersed demonstrations in 2003 and 2004.

During the year police harassed and disrupted the meetings of prodemocracy activists and members of banned political parties. On July 9 in Manzini, police occupied the location planned for a PUDEMO rally organized to commemorate the 22nd anniversary of its establishment.

Freedom of Association.—The law does not provide for freedom of association, and the government restricted this right in practice. Political parties were banned, although political organizations operated without calling themselves parties (see section 3). After the king signed the constitution on July 26, a group of persons announced that they were forming the Communist Party of Swaziland but conducted no subsequent activities.

c. Freedom of Religion.—There is no formal legal provision for freedom of religion; however, the government generally respected freedom of religion in practice.

New religious groups or churches are expected to register with the government. There is no law that describes the organizational requirements of a religious group or church. All religions were recognized unofficially. Groups were registered routinely, and there were no reports that any groups were denied registration during the year.

Government permission was required for the construction of new religious buildings. Non-Christian groups sometimes experienced minor delays in obtaining permits from the government.

On May 7, traditional leaders fined the family of a Jehovah's Witnesses member one cow because the woman refused to wear mourning clothes after her husband's death.

On June 23, the Court of Appeal ruled that the University of Swaziland's failure to accommodate a student's religious obligation was an infringement of his freedom of religion. The first-year university law student, a member of the Seventh-day Adventist Church, failed his course because he chose to attend a church service instead of taking his final exam on a Saturday in May 2004.

On September 2, three children in Lomahasha who were members of Jehovah's Witnesses were reinstated in school after being expelled in 2004 for refusing to pray during assemblies.

On November 11, the Court of Appeal ordered a chief to return five cows that he had seized in 2003 from a member of Jehovah's Witnesses who refused to allow his daughters to wear the virginity tassels ordered by the king.

Societal Abuses and Discrimination.—The relationships among religions were generally amicable. The Jewish community comprises less than 1 percent of the population, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law does not provide for these rights, and the government placed some limits on them in practice. Under traditional law a married woman requires her husband's permission to apply for a passport, and an unmarried woman requires the permission of a close male relative. Nonethnic Swazis sometimes experienced lengthy processing delays when seeking passports and citizenship documents, in part due to the prejudice that mixed-race and white persons were not real citizens (see section 5). Unlike in 2004, there were no reports that political dissenters had their citizenship questioned or experienced difficulty in obtaining travel documents.

The government treated several thousand ethnic Swazis living across the border in South Africa who were not Swazi citizens as indistinguishable from citizens and routinely granted them travel and citizenship documents.

The government blocked overseas employment agencies from obtaining or transferring foreign currency, which was necessary to make arrangements for jobs abroad. This effectively stopped citizens from being able to gain employment in another country.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. According to the UNHCR, there were an estimated one thousand refugees in the country, the majority from central Africa and Angola. The government did not accept refugees for resettlement.

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

Citizens are not able to change their government peacefully. The king retains ultimate executive and legislative authority, and Parliament has no real authority. Legislation passed by parliament requires the king's assent to become law, which he is not obliged to give. The king chooses the prime minister, the cabinet, two-thirds of the Senate, many senior civil servants, and the heads of government offices.

On July 26, the king ratified a constitution and announced that it would take effect in January 2006. Civic organizations criticized the government for the way it drafted the constitution, specifically for not allowing groups to contribute to the document. In addition civic groups charged that the constitution would not enable citizens to change executive government officials peacefully. In March the high court dismissed an application by two banned political parties and two labor unions for a court order to stop parliament from debating or ratifying the constitution. The case was dismissed under the 1973 proclamation that banned all political parties.

Elections and Political Participation.—According to law, 55 seats in the 65-member House of Assembly are popularly contested, and the king appoints the remaining 10 members. The most recent parliamentary elections took place in 2003; however, commonwealth observers concluded they were not free and fair. Election procedures generally were carried out in an orderly fashion, but police arrested several persons for using forged voter registration certificates and for trying to vote more than once. Political parties are banned but several participated, and three opposition members were elected to parliament.

The king appoints 20 members of the 30-seat Senate; the House of Assembly elects the other 10.

Chiefs are custodians of traditional law and custom and are responsible for the day-to-day running of their chieftom and for maintaining law and order. Chiefs are an integral part of society and act as overseers or guardians of families within the communities and traditionally report directly to the king. Local custom mandates that chieftaincy is hereditary.

Women generally had full legal rights to participate in the political process; however, in accordance with societal practice, widows in mourning (for periods that can vary from one to three years) are prevented from appearing in certain public places and in close proximity to the king. As a result, they can be excluded from voting or running for office. There were 5 women in the 65-member House of Assembly, 10 women in the 30-member Senate, and 3 female ministers in the cabinet. Three women served as principal secretaries, the most senior civil service rank in the ministries.

There were three members of minorities in the Senate. There were no minority members in the House of Assembly or cabinet.

Government Corruption and Transparency.—There was a widespread public perception of corruption in the executive and legislative branches of government; however, apart from denunciations of corruption by several high-level government officials and the drafting of an anticorruption bill, the government took no action to combat it. On March 9, Minister of Finance Majozi Sithole stated during his budget speech presentation that the government was losing more than \$5.9 million (40 million emalangeni) through corruption every month. There were credible reports that unqualified businesses were awarded contracts due to the owners' relationship with government officials.

The press reported that some MPs engaged in fraud, kickbacks, and scams. There were no developments in the 2004 cases of three sitting MPs who were free on bail pending trial for fraud, the case of a former speaker of the House of Assembly who was alleged to have misappropriated \$7,463 (50 thousand emalangeni) while in office, or the case of fraud charges against the chair of the Swaziland Electricity Board. The latter two cases were referred to police for further investigation.

There is no law permitting public access to government documents, and public documents were difficult to access. For example, few persons were able to obtain copies of the draft constitution while it was being debated in parliament.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Among the active groups were the Swaziland Action Group Against Abuse (SWAGAA), Lawyers for Human Rights of Swaziland, and Women and Law in Southern Africa. Government officials were generally receptive but unresponsive to their views, although in August the RSPS and SWAGAA finished co-

drafting a manual to be used in training police recruits on sexual abuse and domestic violence cases (see section 5). Human rights groups spoke out on a number of occasions, criticizing the lack of accountability and transparency in the government.

On July 3, the African Commission on Human and People's Rights released a report stating that the 1973 decree, which outlawed political parties and allowed the king to intervene in the judiciary, violates Article 13 of the African Charter. The commission gave the country six months to conform to the charter. By year's end the government had taken no action except to declare the decree would be repealed when the constitution goes into effect in early 2006.

In July the International Crisis Group, an NGO working to prevent and resolve deadly conflict, issued a report, *Swaziland: The Clock Is Ticking*, which criticized the absolute monarchy and called for a number of reforms. By year's end the government had not acted on any of these recommendations.

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

In general the law does not prohibit discrimination based on race, sex, disability, language, or social status, and women and mixed-race citizens sometimes experienced governmental and societal discrimination. The labor law forbids employers from discriminating on the basis of race, sex, or political affiliation.

Women.—Domestic violence against women, particularly wife beating, was common despite traditional restrictions against this practice. Women have the right to charge their husbands with assault under both the Roman-Dutch and the traditional legal systems, and urban women frequently did so, usually in extreme cases when intervention by extended family members failed to end such violence. Penalties for men found guilty of assault not involving rape depended on the court's discretion. Rural women often had no relief if family intervention did not succeed, because the traditional courts could be unsympathetic to "unruly" or "disobedient" women and were less likely than the modern courts to convict men for spousal abuse. The Roman-Dutch legal system sometimes handed out light sentences in cases of abuse against women. For example, on July 25, a high court judge sentenced a man who had killed his girlfriend to seven years' imprisonment but suspended five years of the sentence.

Rape also was common and regarded by many men as a minor offense. Rape is against the law, and the penalty is nine years' imprisonment. A sense of shame and helplessness often inhibited women from reporting such crimes, particularly when incest was involved. In the modern courts, the acquittal rate was high and sentences were generally lenient. The three persons suspected of raping and sexually assaulting a student in September 2004 for wearing a miniskirt were awaiting trial at year's end.

Prostitution is illegal, and police continued to enforce the law. The law provides some protection from sexual harassment, but its provisions were vague and largely ineffective. For example, according to a July 13 article in the *Times of Swaziland*, several female fire department officers complained to their union that senior officers called them into their offices and touched them inappropriately; one of the women was transferred to another station. In July three newly recruited female soldiers were dismissed after medical tests revealed they were pregnant. Several NGOs provided support for victims of abuse or discrimination. Despite the law's requirement for equal pay for equal work, average wage rates for men by skill category usually exceeded those of women.

Women occupied a subordinate role in society. In both civil and traditional marriages, wives are legally treated as minors, although those married under civil law may be accorded the legal status of adults if stipulated in a signed prenuptial agreement. A woman generally must have her husband's permission to borrow money, open a bank account, obtain a passport, leave the country, gain access to land, and, in some cases, obtain a job. Women routinely executed contracts and entered into a variety of transactions in their own names.

The dualistic nature of the legal system complicated the issue of women's rights. Since unwritten law and custom govern traditional marriage, women's rights often were unclear and changed according to where and by whom they were interpreted. Couples often married in both civil and traditional ceremonies, creating problems in determining which set of rules applied to the marriage and to subsequent questions of child custody and inheritance in the event of divorce or death.

In traditional marriages a man may take more than one wife. A man who marries a woman under civil law legally may not have more than one wife, although in practice this restriction sometimes was ignored. Traditional marriages consider children to belong to the father and his family if the couple divorce. Children born out of wedlock are viewed as belonging to the mother. Under the law a woman does not

pass citizenship automatically to her children. Inheritances are passed through male children only.

Mourning customs led to inequalities for women, and the high prevalence rate of HIV/AIDS further exacerbated this inequality. When the husband dies, his widow must remain in strict mourning for one month, during which she cannot leave the house and the husband's family can move into the homestead and take control of its operations. The mourning period can extend as long as three years, during which the widow's actions are extremely restricted. For example, she cannot participate in the chief's *kraal*, a traditional place of gathering where persons take their problems (see section 3).

The Ministry of Home Affairs is responsible for coordinating women's issues but took no notable actions during the year. Although gender sensitization was not part of the formal school curriculum, some schools organized debates and other mechanisms to address gender issues. The University of Swaziland Senate had a subcommittee that encouraged students and faculty to hold seminars and workshops on gender issues.

Children.—The government was committed to children's rights and welfare, but the growing number of orphans and vulnerable children (OVC)—70 thousand in 2004—challenged that commitment.

The government did not provide free, compulsory education for children; the government paid teachers' salaries, while the student paid fees for books and contributed to the building fund. The government paid for OVC tuition and school fees, but at year's end some schools complained of delayed payment. Supplemental money sometimes had to be raised for building maintenance, including teachers' housing. The country had a 70 percent primary school enrollment rate. Children were required to start attending school at the age of six. Most students reached grade 7, the last year of primary school, and many went on to finish grade 10. The public school system ends at grade 12. In rural areas families favor boys over girls if they do not have enough money to send all their children to school. A government task force continued to educate the public on children's issues.

Medical care for children generally was inadequate and characterized by long waits for medical care, poor nursing care in public hospitals, and overcrowded and understaffed hospitals. Most prescription drugs were available in urban facilities, but rural clinics had inadequate supplies of certain drugs.

Child abuse was a serious problem, and the government did not make specific efforts to end such abuse. Rape of children was also a serious problem, with media reports of rapes of children one year old and younger. Children convicted of crimes sometimes were caned as punishment. On June 30, the Mbabane National Court sentenced a 14-year-old boy to 4 strokes of the cane for shoplifting. In July, 10 students from Siphocosini High School said their teacher used corporal punishment (reports varied between 2 and 15 strokes of a stick) for laughing at a joke. The Minister of Education stated that teachers are permitted to use up to four strokes for disciplinary action. Some students complained teachers used a whip for punishment or beat them with a long stick.

Abandoning newborn babies was a problem. On August 26, the *Times of Swaziland* published a police report stating that 21 newborn babies had been discovered abandoned since January; most did not survive. The media subsequently reported additional instances of abandoned babies, but no official statistics were available.

The legal age of marriage is 21 for both men and women. However, with parental consent and approval from the minister of justice, girls age 16 and boys age 18 married. The government recognized two types of marriage: civil marriages and marriages under law and custom. Traditional marriages under law and custom can be with girls as young as 14. Critics of the royal family said the king's many wives and young fiancées, some of whom were 16, set a poor example for behavior change in a country with the highest HIV/AIDS prevalence rate in the world.

The law prohibits prostitution and child pornography, provides protection to children under 16 years of age from sexual exploitation, and sets the age of sexual consent at 16 years. Nevertheless, female children sometimes suffered sexual abuse, including by family members. There were reports that Mozambican and Swazi girls worked as prostitutes in the country (see section 5, Trafficking). Children, including street children, were increasingly vulnerable to sexual exploitation.

Child labor was a problem (see section 6.d.).

There were growing numbers of street children in Mbabane and Manzini. A large and increasing number of HIV/AIDS orphans were cared for by aging relatives or neighbors, or they struggled to survive in child-headed households. Some lost their property to adult relatives. The National Emergency Response Committee on HIV and AIDS, a private group partly funded by the government and by international aid, and other NGOs assisted some AIDS orphans.

With more than 10 percent of households headed by children, the UN Children's Fund (UNICEF) supported school feeding programs, established a number of neighborhood care points, and provided nutritional support to children weakened by AIDS.

Trafficking in Persons.—The law does not prohibit trafficking in persons, and there were reports of trafficking of small numbers of women and girls. Underage Mozambican and Swazi girls reportedly worked as prostitutes in the country or were trafficked to South Africa for domestic work or prostitution. There is no government agency specifically responsible for combating trafficking.

Persons with Disabilities.—There is no law prohibiting discrimination against persons with disabilities in employment, access to health care, or in the provision of other state services. Persons with disabilities complained of government neglect. There was no secondary school for deaf children. In November the Foundation of Disabled Persons in Swaziland complained that there were no schools for approximately 900 visually impaired children of school age. The hospital for persons with mental disabilities in Manzini held 80 patients in wards designed for 35 and was understaffed. There are no laws that mandate accessibility for persons with disabilities to buildings, transportation, or government services, although government buildings under construction included some improvements for those with disabilities, including accessibility ramps.

In June the body of a child with a disability was buried after three weeks in a mortuary. His family said that the reason for delay was the traditional leaders' belief that the child's disability would spread in the community if he was buried in the traditional manner.

National/Racial/Ethnic Minorities.—Governmental and societal discrimination was practiced widely against nonethnic Swazis, namely white persons and persons of mixed race. Although there were no official statistics, an estimated 2 percent of the population was nonethnic Swazi. Nonethnic Swazis experienced difficulty in obtaining official documents, including passports (see section 2.d.). Nonethnic Swazis also suffered from other forms of governmental and societal discrimination, such as needing special permits or stamps to buy a car or house, delays in receiving building permits for houses, and difficulties in applying for a bank loan.

Other Societal Abuses and Discrimination.—Societal discrimination against homosexuals was prevalent, and homosexuals often concealed their sexual preferences. There is a social stigma associated with being HIV positive, and this discouraged persons from being tested; however, education was slowly eroding the cultural prejudice.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right to form associations, including trade unions, and workers exercised this right in practice. The 2000 IRA was amended, strengthening the CMAC. Business and labor representatives in the apparel sector entered into an agreement clarifying procedures governing union recognition. Unlike in 2004, the government did not harass labor unions. Workers in essential services, such as the police, may not form unions. Approximately 80 percent of the formal private sector was unionized. The informal sector employed approximately 98 thousand persons.

The law prohibits antiunion discrimination; however, such discrimination continued to occur. Unlike in 2004, manufacturers did not refuse to recognize any duly elected unions. In the case of unfair dismissal, the court can order reinstatement and compensation for the employee as well as fine the employer. Union leaders made credible charges that management in various industries dismissed workers for union activity. Other concerns identified were undefined hours of work and pay days, frequent assaults on workers by supervisors, surveillance by hired security officers of trade union activity both at the workplace and outside, and the use of workers' councils stacked with employer-picked representatives to prevent genuine worker representation. The allegations of union discrimination were most common in the garment sector. On April 27, the *Times of Swaziland* reported that the Oxford Leasing Company in Manzini fired two employees for joining the Swaziland Manufacturing and Allied Workers Union. The government did not intervene, and the union took the matter to the industrial court, where the case was pending at year's end. The CMAC ordered the government to promote a fireman who had allegedly been denied promotion because he was a union official; the fireman was promoted on November 1.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and bargain collectively, and the government generally respected this right in practice. However, employer interference with representatives of workers'

councils to negotiate terms of conditions of work for employees contributed to the failure of some trade unions to negotiate or promote collective bargaining agreements. Several collective bargaining agreements were reached during the year. There are no export processing zones.

The IRA does not specifically permit strikes, but it allows employees who are not engaged in essential services to participate in peaceful protest action to promote their socioeconomic interests. In January, 150 to 200 persons participated in a 2-day protest to express to the prime minister their dissatisfaction with the government. The protest was organized by the two largest trade unions as well as the country's banned political parties. There were no reports of violence. The IRA prohibits protest actions in "essential services," which included police and security forces, correctional services, fire fighting, health, and many civil service positions. The law details the steps to be followed when disputes arise and provides penalties for employers who conduct unauthorized lockouts; unlike in 2004, no lockouts occurred. When disputes arose with civil servant unions, the government often intervened to reduce the chances of a protest action, which may not be called legally until all avenues of negotiation have been exhausted and a secret ballot of union members has been conducted. In June the International Labor Organization again cited the government for excessive length in the procedures required before a trade union can conduct a legal strike. The IRA empowers the government to mediate employment disputes and grievances through the CMAC.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and the government rarely had to enforce this prohibition. However, there were reports that such practices occurred (see section 5). The SFTU cited the 1998 Administrative Order as a form of forced labor, because it reinforced the tradition of residents performing tasks for chiefs without receiving compensation and penalized them for nonparticipation.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits child labor, but child labor was a problem. The 1980 Employment Act distinguishes between a "child" (under 15 years) and a "young man" (ages 15 to 18), but it does not establish a minimum age of employment. The law prohibits hiring a child below the age of 15 in an industrial undertaking except in cases where only family members were employed in the firm or in technical schools where children worked under supervision. However, children were vulnerable to joining the workforce early, and the law does not guarantee a primary school education. Legislation limits the number of night hours that children may work on schooldays and also limits children's work hours overall to 6 per day and 33 per week. Employment of children in the formal sector was not common; however, children below the minimum age frequently were employed in the agricultural sector, particularly in the eastern cotton-growing region. Children also were employed as domestic workers and as herd boys in rural areas. Children were victims of prostitution and trafficking in persons (see section 5). The Ministry of Enterprise and Employment's Department of Labor was responsible for enforcement, but its effectiveness was limited by personnel shortages.

e. Acceptable Conditions of Work.—The Ministry of Enterprise and Employment sets wage scales for each industry. There was a legally mandated sliding scale of minimum wages depending on the type of work performed. The minimum monthly wage for a domestic worker was approximately \$45 (300 emalangeni), for an unskilled worker \$63 (420 emalangeni), and for a skilled worker \$90 (600 emalangeni). These minimum wages generally did not provide a decent standard of living for a worker and family. Wage arrears, particularly in the garment industry, were a problem.

There is a maximum 48-hour workweek in the industrial sector except for security guards, who worked up to six 12-hour shifts per week. The law permits all workers one day of rest per week and provides for premium pay for overtime. Most workers received a minimum of 12 days' annual leave. The labor commissioner conducted inspections in the formal sector; however, these inspections generally did not result in enforcement of the law. There were allegations that women who tried to take maternity leave were dismissed, that employers paid employees at casual or probationary wage scales regardless of their position or length of service, and that some supervisors physically abused employees. On August 25, the acting chief justice of the Court of Appeal ordered the Sun Taylon company to give a woman \$2,064 (13,829 emalangeni) in damages, after a supervisor slapped the woman twice on the face on January 21.

The law provides for protection of workers' health and safety. The government set safety standards for industrial operations and encouraged private companies to develop accident prevention programs; however, the labor commissioner's office con-

ducted few safety inspections because of staffing deficiencies and an alleged desire not to “scare off foreign investors.” Workers had no legal right to remove themselves from dangerous workplaces without jeopardizing their continued employment, nor did any collective bargaining agreements address the matter.

On February 15, several hundred workers at Welcome Textile rioted after a foreign employee hit a local employee. Her co-workers, thinking she had died, extensively damaged the workplace. There was at least one arrest, but no further information on the incident was available.

There were extensive provisions allowing workers to seek redress for alleged wrongful dismissal, and these provisions frequently were invoked.

TANZANIA

The United Republic of Tanzania is a multiparty state led by the president of the union (consisting of the mainland and the Zanzibar archipelago) and had a population of approximately 37 million. Zanzibar, although integrated into the country's governmental and party structure, has its own president, court system, and parliament and continued to exercise considerable local autonomy. In the union's December 14 presidential and legislative elections, Jakaya Kikwete was elected by mainland and Zanzibari voters as president of the union—succeeding President Benjamin Mkapa—and the ruling Chama Cha Mapinduzi (CCM) party made significant gains in the National Assembly. Observers considered the union elections to be freer and fairer than previous elections, despite irregularities and politically motivated violence, mostly on Zanzibar. 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.

The government's human rights record remained poor; however, there were several significant improvements in some key areas, although problems remained. The government demonstrated more respect for citizens' right to change their government peacefully. Government efforts helped reduce mob killings during the year. There were no longer reports that city police in Dar es Salaam used excessive force against or confiscated the goods of petty street traders. The government took more steps to address judicial inefficiency and corruption. During the year the number of newspapers, radio stations, and journalists grew, including on Zanzibar. Unlike in the previous year, there were no reports that police used force to disburse student demonstrators. In addition, as the government continued to use specialized agencies to fight corruption, citizens perceived less corruption than in 2004, although it continued to be a severe problem. Despite improvements, some problems increased during the year. For example government harassment of political opposition parties increased, especially prior to elections and particularly on Zanzibar. There was also a significant increase in reported killings of elderly individuals suspected of being witches. The following human rights problems were reported:

- unlawful killings by security forces
- societal killings of elderly persons accused of being witches
- torture, beatings, and other abuses of persons, particularly detainees and prisoners, by security forces
- impunity
- harsh and life-threatening prison conditions
- arbitrary arrest and detention of opposition politicians, members, and supporters
- prolonged pretrial detention
- infringement on citizens' privacy rights
- restrictions on freedoms of speech and the press, particularly on Zanzibar
- restrictions on freedoms of assembly and association, including the forcible dispersion of demonstrators
- limits on the right of asylum and restrictions on refugees' freedom of movement
- pervasive official corruption
- societal violence, including rape, and societal discrimination against women
- child abuse, including female genital mutilation (FGM)
- trafficking in persons
- child labor and forced labor

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the government or its agents; however, security forces continued to use excessive, lethal force against citizens.

During the year police killed several suspected criminals. On July 21, police shot and killed a man suspected of theft. No additional information was available at year's end.

In July Zanzibar police beat Selemani Juma Mpusa for allegedly trespassing in a police camp and refusing to answer questions. Mpusa died the following month due to ruptures of internal organs caused by the beatings. Relatives of the victim wrote to the union inspector general of police requesting action against the police officers responsible for the killing, but no action had been taken by year's end.

There were also two reported deaths in custody. In July, according to press reports, a prison warden beat to death an inmate in the Kisongo Prison in the region of Arusha. In a separate incident on July 16, authorities in Shinyanga region discovered the body of a dead man in a police cell in the Kagongwa district village of Kagongwa. In July police began an investigation to establish whether the individual committed suicide or was killed in custody, but no additional information was available at year's end.

There were no reported prosecutions of police who killed suspects in 2004 and 2003.

In September newspapers reported that bail had been granted for two policemen who were being prosecuted for killing a building inspector in Arusha Region in 2004.

No information was available on the investigation into the use of excessive force by police in November 2004, which resulted in the killing of a minor during the mainland's local elections.

In August the director of criminal investigations said that police had opened an official inquest into the December 2004 killing of a student and the wounding of two other persons by a paramilitary unit member in Pemba; the director said that initial tests had been completed and forwarded to the director of public prosecution for further action.

Following the government's public outreach campaign against mob violence during the year, there were fewer reported incidents in which mobs killed suspected thieves; however, deaths from stoning, beating, hacking with machetes, and burning continued. In April, a mob caught and killed a suspected thief in the Mbozi area of Mbeya. In addition, in October a mob in the region of Mwanza stoned, beat, and burned to death two individuals accused of robbing a woman.

Although the government sometimes prosecuted cases of mob violence in the past, government officials reported difficulties in prosecuting cases due to the unwillingness of witnesses to cooperate. There were no developments in the one case—originating in Zanzibar—that was pending in the courts at the end of 2004.

Unlike in the previous year, there were no reports that villagers killed refugees suspected of stealing or other crimes.

The widespread belief in witchcraft, particularly in Shinyanga region, led to the killing of numerous alleged witches by those claiming to be their victims, aggrieved relatives of their victims, or by mobs. At year's end the practice of killing alleged witches had reportedly spread to other regions.

On January 9, the *Sunday Citizen* newspaper reported that more than 6,680 elderly individuals were killed in 2004 in regions near Lake Victoria on suspicion of being witches, including 2,750 such killings in Shinyanga, 2,250 in Tabora, and 1,680 in Mwanza. Other regions cited for the killing of older women included Mara and Mbeya. In June neighbors of an elderly woman reportedly burned down her house in Dar es Salaam Region after accusing her of being a witch. In July unidentified individuals killed Kuhoka Paulo, a 70-year-old woman, in Shinyanga. In August the Swahili newspaper *Majira* reported that relatives killed a 70-year-old woman in Iringa Region for suspected witchcraft.

During the year there were no reports that the government prosecuted individuals accused of killing suspected witches, despite the government's 2004 denouncement of the practice. In September 2004 the government issued a statement promising to work together with Shinyanga regional authorities to fight the killings of elderly men and women.

There were no developments in the August 2004 mob killing of seven persons accused of practicing witchcraft in Makete in Iringa region.

In the regions of Iringa and Mbeya, there were many reports that individuals practicing witchcraft killed children and school students, allegedly to remove and

sell body parts and skin. During the year there were at least three convictions related to this practice.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there continued to be reports that police officers tortured, threatened, and otherwise mistreated suspected criminals and prisoners during the year. Beatings and floggings were the methods most commonly used. According to press reports, more police were prosecuted during the year for abusing prisoners than in the previous year.

By year's end there was no additional information available regarding the May 2004 accusation alleging that police in Shinyanga pulled a detainee's genitals.

In September the government formed a commission to investigate torture allegations involving senior prison officers in the Geita district of Mwanza region. The officers were accused of torturing, beating, and sodomizing two members of *sungusungu*, a traditional militia. No additional information was available at year's end.

Caning and other forms of corporal punishment were used in schools (see section 5). Local government officials and courts occasionally used caning as a punishment for both juvenile and adult offenders. For example in May a resident magistrate's court in Arusha sentenced a prominent businessman to prison and to receive 12 cane strokes for raping his house maid. Overall use of caning in schools and by courts continued to decline during the year following public outreach efforts by the government—particularly the Ministry of Education—and the press.

During the year a senior officer of the Tanzanian People's Defense Force (TPDF), speaking at a national ceremony, publicly warned soldiers not to beat civilians; however, there were a few reports that security forces beat civilians without cause. For example in August TPDF members attacked and beat street hawkers in the Magomeni suburb of Dar es Salaam, reportedly in response to a local theft; at least five youths were severely injured. At year's end there were no reports that official action had been taken against the responsible TPDF officers. In addition on October 3, People's Militia Field Force Unit (FFU) officers reportedly used iron rods to beat villagers in the Boko district of Dar es Salaam after the villagers resisted government attempts to demolish their houses. The villagers sustained deep cuts to their heads. At year's end there were no reports of official action taken against the officers responsible for the beatings.

There were no developments in the April 2004 beating of civilians by soldiers in Arusha.

During the year there were a few prosecutions of security forces members accused of using excessive force or inhuman treatment. For example on June 1, a court in the Ilala district of Dar es Salaam ruled that the case against two soldiers who were charged in 2002 with causing grievous harm to six individuals and undressing a woman in public in the Kariakoo market in Dar es Salaam region should go to trial. At year's end the case was pending.

Unlike in the previous year, there were no reports that Dar es Salaam police used excessive force against or confiscated the goods of petty street traders while attempting to relocate them. However, on Zanzibar, according to the opposition party Civic United Front (CUF) and the March 15 edition of daily newspaper *The Citizen*, more than 30 youths undergoing paramilitary training kidnapped three street hawkers, stripped them naked, beat them, and then sodomized them.

Security forces used excessive force to disperse demonstrations (see section 3).

During the year opposition party parliamentarians continued to denounce the use of excessive force by police.

There were reports that security forces sexually abused individuals in detention.

Unlike in the previous year, there were no bombings by unidentified individuals on Zanzibar.

Prison and Detention Center Conditions.—Prison conditions remained harsh and life-threatening. The prisons, some of which were built during the colonial era, were designed to hold between 2 thousand and 2,700 persons; however, the prison population was estimated at 44 thousand. Three prisons—Maswa, Babati, and Kahama—were overcrowded by over 1,200 percent. Approximately 45 percent of all prisoners were awaiting trial.

The Community Services Act allows persons convicted of minor offenses to be sentenced to community service instead of prison time. During the year the government trained police and magistrates in the implementation of the act, but by year's end the act still had not been used.

Prisoners were subjected to poor living conditions. Authorities did not allow convicted prisoners to receive food from outside sources except for religious reasons. For

example during the month of Ramadan, Muslim prisoners were allowed to receive food from outside sources for their evening meal. Authorities often moved prisoners to different prisons without notifying prisoners' families. In violation of the law, some rural district courts forced detainees who were awaiting trial to pay for their upkeep and transport.

Prison dispensaries offered only limited medical treatment, and friends and family members of prisoners generally had to provide medication or the funds with which to purchase it. Diseases were common and resulted in numerous deaths in prisons. According to government officials, the leading causes of death in order of prevalence were tuberculosis, HIV/AIDS, HIV/AIDS combined with tuberculosis, and malaria.

There were reports that guards beat and sexually abused prisoners during the year. For example in September a prisons officer in Mwanza region reportedly ordered the arrest, detention, and torture of two traditional militiamen. On the order of the prisons officer, eight inmates beat and sexually molested the two men, who required hospitalization after the detention. A government commission created to investigate the incident interrogated the officer who ordered the abuse; by year's end the commission said it was in the final stages of compiling a report, but no official action had been taken.

The Prisons Act requires prisoners to be separated based on age and gender; in practice female prisoners were held separately from male prisoners, but juveniles frequently were not separated from adult prisoners during the day because there were very few juvenile detention facilities in the country. There was one separate youth prison. The Department of Social Welfare managed juvenile courts and juvenile remand homes. The government considered prisoners between the ages of 18 and 21 "young prisoners" and required prisons to separate them from the older adult prison population at night.

Pretrial detainees were held with convicted prisoners and were allowed to receive food from the outside. In October legal proceedings at a resident magistrate's court in Arusha were temporarily paralyzed following remandees' refusal to alight from a police van. The remandees, one of whom had been detained for 10 years without trial, complained of the slow pace of police investigation in their cases. The police chief blamed the delays on a lack of police officers and a large number of cases. The detainees agreed to be driven back to Kisongo prison after airing their grievances to the authorities.

By year's end there was no information available on 5 police officers charged in the 2002 case of 17 prisoners who suffocated to death in an overcrowded jail cell in Mbeya.

Local nongovernmental organizations (NGOs) and diplomatic observers were permitted to monitor prison conditions; however, international organizations did not request permission to monitor prison conditions during the year. The International Committee of the Red Cross visited prisoners at the International Criminal Tribunal for Rwanda, in Arusha. The government permitted the Office of the UN High Commissioner for Refugees (UNHCR) to visit prisons holding refugees in Dar es Salaam and in the west.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, both were problems.

Role of the Police and Security Apparatus.—The national police force, under the Ministry of Home Affairs, has primary responsibility for maintaining law and order. The FFU is a division of, and directly controlled by, the police force. Citizens' patrols known as sungusungu continued to support the police force, including in refugee camps. Police were not responsible for overseeing sungusungu, who worked with local government leaders. The TPDF is responsible for external security and had some domestic security responsibilities; it is overseen by the Ministry of Defense.

The police force was underfunded and inefficient. The use of excessive force, police corruption, and impunity were serious problems. There continued to be numerous reports in the press and complaints from civil society groups and citizens about police corruption during the year (see section 3). Citizens often complained that police were slow to investigate crimes and prosecute criminals. Although not lawyers, police acted as public prosecutors in the primary courts. Many judicial experts criticized this arrangement, saying that it allowed police to manipulate evidence in criminal cases and sometimes resulted in cases being thrown out of court. According to NGO reports, there were instances in which the police lost evidence, and suspects with sufficient means successfully avoided prosecution by bribing police officers. Police also used the threat of arbitrary arrest to extort money. Communities perceived a general lack of protection amid an increase in crimes committed by armed criminals. The general lack of trust in the police force and in the court system contributed to incidents of mob justice during the year (see section 1.a.). Internal mecha-

nisms within the police hierarchy were available to investigate violations committed by police.

During the year the police force held training seminars on expediting investigations, finalizing criminal cases, and handling opposition party members and leaders.

The People's Militia Laws grant legal status to the traditional sungusungu neighborhood and village anticrime groups. Local governments appoint the members with the help of individual households who decide which among them will join the sungusungu watch. The sungusungu remained active in rural areas such as Tabora, Shinyanga, and Mwanza regions as well as in refugee camps, but were not present in most urban areas. Sungusungu have the authority to arrest persons, but they do not have the authority to carry firearms and instead carried wooden clubs for protection. Sungusungu have been criticized in recent years for using excessive force, including the severe beating of suspects, which on occasion resulted in death. It was customary for residents of a neighborhood in which sungusungu operated to either donate a small sum to the sungusungu for patrols or, if they did not have money, to provide one person from their household to participate in patrols. In refugee camps, in addition to a regular police contingent, sungusungu groups composed of refugees acted as quasi-official security forces.

Arrest and Detention.—The law requires that a person arrested for a crime, other than a national security detainee (as defined under the Preventive Detention Act), be charged before a magistrate within 24 hours of arrest; however, in practice the police often failed to comply with this provision. Accused persons have the right to contact a lawyer or talk with family members but were sometimes denied these rights. Prompt access to counsel was limited by the lack of lawyers practicing in rural areas, the lack of communication systems and infrastructure, and illiteracy and poverty of the accused. Authorities promptly informed detainees of the charges against them. The government provided legal representation for indigent defendants as well as all suspects accused of murder or treason. The law does not allow the possibility of bail for some offences, such as murder and armed robbery, and imposes strict conditions on freedom of movement and association when bail is granted. In the primary and district courts, bribes sometimes determined whether bail was granted.

Under the Preventive Detention Act, the president may order the arrest and indefinite detention without bail of any person considered dangerous to the public order or national security. The act requires that the government release detainees within 15 days of detention or inform them of the reason for their detention; it also allows a detainee to challenge the grounds for detention at 90-day intervals. The government has additional broad detention powers under the law, which permit regional and district commissioners to arrest and detain for 48 hours persons who may "disturb public tranquility." The act was not used during the year.

Police use of arbitrary arrest against politicians, members, and supporters of the political opposition increased during the year (see section 3). For example, in October union police arrested CUF parliamentary candidate Ustapha Wandwi for allegedly participating in an illegal rally; however, CUF leaders denied the charge and said police were attempting to demoralize the political opposition. Wandwi was released after a few days.

On September 11, police arrested Abdul Rashid, a resident of Dar es Salaam, and charged him with destroying a CCM campaign poster. Rachid denied the charges; the case was pending in court at year's end.

Police arrested refugees for leaving refugee camps without permits (see section 2.d.).

Union security forces based in Zanzibar and the archipelago's own security forces, known as the *vikosi*, reportedly committed human rights violations during the year, including arrests, detentions, and harassment of CUF members (see section 3). There were continued allegations that CCM's Zanzibar chapter worked with the *vikosi* to recruit hundreds of members of the Janjaweed, an allegedly pro-CCM gang, to intimidate the political opposition. The CCM repeatedly denied the charge.

There were no available estimates of the number of political detainees.

Detainees charged with criminal matters waited several years for trial, due to the time required to complete police investigations, a lack of judges to hear cases, and an inadequate judicial budget. Detainees' lack of funds to bribe police and court officials also contributed to such delays. Observers estimated that approximately 5 percent of persons held in remand ultimately were convicted, and often those convicted already had served their full sentences before their trials were held. A government official estimated that it took up to five years for homicide cases to reach the high court. By year's end some suspects had spent as many as 10 years in prison without having their cases heard before a court.

Amnesty.—Prior to leaving office in December, former President Mkapa issued presidential pardons for 3,788 prisoners.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the judiciary remained underfunded, corrupt, inefficient, and subject to executive influence. Corruption was particularly rampant with the lower court officials and court clerks.

Independent observers continued to criticize the judiciary, particularly the lower levels, as corrupt and inefficient, and they questioned the system's ability to provide a defendant with an expeditious and fair trial. Court clerks took bribes to decide whether or not to open cases and to hide or misdirect the files of those accused of crimes. Magistrates of lower courts occasionally accepted bribes to determine guilt or innocence, pass sentences, or decide appeals of cases coming from the primary courts to district courts. In addition, despite government efforts to increase the number of courts by constructing new buildings, there were few courts available to citizens, and the cost of traveling to the nearest court was often prohibitive.

During the year the government took steps to address judicial inefficiency and corruption. The judiciary instituted a policy requiring all court clerks to have a certificate in law, all magistrates at primary and district courts to have a diploma in law, and all resident magistrates to be law graduates. In coordination with the president's office, the judiciary also organized seminars to educate magistrates and court clerks to the National Anticorruption Strategy Program. In addition the government doubled the judiciary's budget from the previous year.

The legal system is based on British common law and recognizes customary and Islamic law in civil cases. In criminal matters, both Christians and Muslims are governed by statutory or common law. In civil and family matters, Christians are governed by civil and customary law, which is composed of approximately 120 types of tribal law, unless they can prove to a judge that customary law does not apply to them (for example, if they have not been living in a traditional community or are foreigners). On Zanzibar, where Muslims comprise more than 95 percent of the population, Muslims are governed by Islamic law in marriage, divorce, child custody, and inheritance cases. However, on the mainland all persons—including Muslims—are subject to the Marriage Act of 1971, a consolidation of family law that recognizes Islamic and customary marriages but subjects them to state regulation and civil law protections for women. On the mainland civil law essentially governs all persons involved in cases of child custody and divorce. In inheritance cases, either civil, Islamic, or customary law could be applied, depending on certain factors. In family matters, the content and application of some customary laws and Islamic law were discriminatory towards women, both on the mainland and Zanzibar (see section 5).

The country has two judicial systems, one on the mainland and one on Zanzibar; both have their own courts, although the Court of Appeals of Tanzania (the country's highest court) has appellate jurisdiction over the mainland and Zanzibar in almost all circumstances. The country's five-tier court system consists of primary courts, district courts, resident magistrates' (regional) courts, two high courts (one in Zanzibar and another on the mainland), and the Court of Appeal of Tanzania. Primary courts, which are present in each administrative region, have jurisdiction for criminal matters, civil matters related to customary and Islamic law, civil suits, and Christian matrimonial suits. The Judicial Service Commission, which is chaired by the chief justice of the Court of Appeal of Tanzania, appointed all judges except those for the Court of Appeal and the high courts, who were appointed by the president. All courts, including Islamic courts, were staffed by civil servants.

Zanzibar has two court systems—the *kadhi* court system and a court system similar parallel to that of the mainland. The kadhi courts adjudicate civil cases that involve Muslims; concern family, divorce, or inheritance; and arise from Islamic law and custom. Kadhi courts also may adjudicate cases involving non-Muslims on matters of marriage if the marriage was governed by Islam. In order of increasing importance, there are district kadhi courts, a chief kadhi court, and a high court of Zanzibar. Unlike all other cases, cases in the kadhi system and cases examining the constitutionality of Zanzibar laws cannot be appealed to the Court of Appeal of Tanzania. Instead, those two types of cases can only be appealed to a special kadhi appellate court made up of appellate court chief justices, judges, and kadhis.

On Zanzibar the majority of judges were Muslim, but on the mainland there were few Muslim judges. Consequently, some Muslim groups complained that it was inappropriate for Christian judges on the mainland to continue administering Islamic law for Muslims in family matters without training in Islamic law.

Trial Procedures.—On the mainland and Zanzibar, criminal trials were open to the public and to the press; courts are required to give reasons on record for holding

secret proceedings. The Prevention of Terrorism Act excludes everyone except the interested parties from trials of terrorist suspects and suppresses information, reportedly to protect the identity of witnesses in those trials.

There is no trial by jury in any of the country's courts. The law provides for the presumption of innocence. All defendants charged with civil or criminal matters—except parties appearing before Zanzibar's kadhi court system and cases examining the constitutionality of Zanzibar laws—could appeal decisions to the high courts and the Court of Appeal of Tanzania. The law provides a right to defense counsel for defendants accused of murder and treason, as well as for indigent defendants. There were only a few hundred practicing lawyers in the country, although the number of lawyers and advocates practicing in the country increased significantly during the year. Most indigent defendants in rural areas charged with lesser crimes did not have legal counsel. Most defendants in urban areas who could not afford to hire a legal representative or lawyer represented themselves in court. The law prohibits advocates from appearing or defending clients in primary or district level courts.

There was one juvenile court for young offenders; however, this court was overburdened and handled cases only for offenders in Dar es Salaam, where it was located. Juvenile offenders in other regions were tried in adult courts.

The law also provides for commercial courts, land courts, housing tribunals, and military tribunals. Military tribunals do not try civilians. Defendants before military tribunals may appeal to the high court and the Court of Appeal of Tanzania.

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law generally prohibits such actions without a search warrant; however, the government did not consistently respect these prohibitions in practice. The Prevention of Terrorism Act permits police of a certain rank to conduct searches without a warrant in certain urgent cases; there were no reports that the act has ever been implemented in practice.

Only courts can issue search warrants; however, the law also authorizes searches of persons and premises without a warrant, if necessary, to prevent the loss or destruction of evidence connected with an offense, or if circumstances are serious and urgent. In practice members of security forces rarely requested warrants and often searched private homes and businesses at will.

During the year there were reports that Zanzibari paramilitary groups looted houses, mosques, and shops and destroyed property in Piki village in Wete, Pemba.

The security forces reportedly monitored telephones and correspondence of some citizens and foreign residents.

During the year the government forcibly evicted or displaced individuals and demolished or repossessed their homes (see sections 1.c. and 2.a.).

In April the Human Rights and Good Governance Commission ruled in favor of approximately 135 villagers who in 2001 had been forcibly evicted from their land by district-level government officials, who also ordered the destruction of their properties. The commission gave the government 30 days to compensate and resettle the villagers and requested that a report be submitted on the matter by May 23. By June the government had not responded, so the commission—in cooperation with the Legal and Human Rights Center (LHRC), a domestic human rights group—filed two civil court cases against the government to enforce the commission's ruling.

The Spinsters, Widows, and Divorcees Protection Act of Zanzibar makes it a criminal offense for any woman to become pregnant out of wedlock and prescribes a prison term of up to two years. In theory, the law could also be applied to men; however, because DNA testing was not available on Zanzibar, only women have been sentenced under the law. During the year one woman was convicted under the act and served a suspended sentence. In January lawmakers on Zanzibar voted to replace the act with one that would reduce prison penalties for young women to community service; however, by year's end President Karume had not signed the act into law.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech, but does not expressly provide for freedom of the press; in practice the union government partially limited these rights, and the semi-autonomous Zanzibar government significantly limited these rights. The country's laws limit the media's ability to function effectively. The print media were subject to considerable government restrictions, including the enforcement of a code of ethics. Although the code is considered voluntary, the government has fined and suspended newspapers under this code. Libel laws that impose criminal penalties intimidated journalists, who practiced self-censorship. On the mainland the government allowed political opponents unrestricted access to the media.

Citizens on the mainland generally enjoyed the right to discuss political alternatives freely; however, freedom of speech was restricted. The law requires political parties to support the continuation of the union. Opposition political party members and others openly criticized the government and ruling party; however, under the law persons using “abusive language” against the country’s leadership were subject to arrest. Harassment of opposition parties increased dramatically from the previous year.

Authorities occasionally restricted political and religious speech by Muslims during the year (see section 2.c.).

Registration of newspapers remained difficult and was at the discretion of the registrar. The mainland and Zanzibar have separate media policies. During the year the number of newspapers, radio stations, and journalists grew. On the mainland there were more than 537 registered newspapers, including 12 active dailies and more than 50 weeklies. Many of the mainland’s newspapers were privately owned. There were a dozen periodicals in the country, some of which were owned or influenced by political parties, including CCM and CUF. Mainland publications, including one government-owned newspaper, regularly criticized the government.

Approximately 26 radio stations and 15 television stations broadcast in Dar es Salaam and in a few other urban areas on mainland. Many radio stations and all but one television station were privately owned. The government occasionally circumscribed activities of the broadcast media; for example radio stations could not broadcast in tribal languages. On Zanzibar the government controlled radio and television; however, many residents were able to receive mainland broadcasts.

According to the African Press Network for the 21st Century, during the year Zanzibar authorities licensed nine private electronic media and four private newspapers. Of those licensed during the year, two radio stations, two private cable television stations and one newspaper, *Zanzibar Wiki Hii*, began operations during the year. According to the Media Institute of Southern Africa (MISA), the increase of independent media in Zanzibar was “encouraging.”

There were reports that government officials on the mainland beat members of the media during the year. On September 10, a group of prison wardens in Dar es Salaam—as well as prisoners acting on the wardens’ orders—severely beat Mpoki Bukuku, chief photographer for the private newspaper *The Citizen*, in the Ukonga area of Dar es Salaam region. Bukuku was attempting to cover the eviction of families from houses that were being repossessed by the Tanzanian Prisons Department; the families had challenged the repossession in court on September 6, and the case was pending at year’s end. Journalists and photographers had been officially ordered not to cover the event but defied the order. Guards and prisoners also clubbed and kicked Christopher Kidanka, information officer for the Dar es Salaam-based LHRC, as well as other bystanders, and attempted to confiscate cameras and notebooks from Bukuku and Kidanka. The home affairs minister defended the assault, saying that the wardens had used “reasonable” force; however, local media associations called for Home Affairs Minister Omary Mapuri Maura’s resignation. On September 14, the police director of criminal investigations created a committee to investigate the assaults, which he described as “criminal,” and two days later, Mapuri apologized publicly for his statements supporting the prison wardens. On September 20, nine prison wardens appeared before a magistrate’s court in Dar es Salaam and plead not guilty to charges of assaulting and injuring dozens of individuals, including the two journalists. A magistrate released the nine defendants on bail and continued the case; the investigation was ongoing at year’s end.

There were reports that security forces arrested, interrogated, and otherwise harassed journalists during the year. In June the Zanzibar police reportedly arrested Assah Mwambene, reporter and editor of the state-owned *Daily News*, and detained and interrogated him for several hours. The police charged that articles he wrote on the voter registration process and the potential for election sabotage endangered state security.

There were occasional reports that nongovernmental actors used violence against and harassed members of the media. For example during the year two CUF supporters assaulted journalists. On November 9, a Dar es Salaam court began hearing the case against the two individuals; there was no additional information at year’s end.

During the year the Zanzibar government continued to use the Zanzibar News Act to harass journalists and limit freedom of the press. For example, in June Zanzibar authorities banned political columnist Jabir Idrissa, a writer for the weekly mainland newspaper *Rai*, from practicing journalism and accused him of working illegally. Director of Information Ali Mwinyikai said Idrissa had violated the Zanzibar News Act. The act allows Zanzibar’s director of information to revoke a license at anytime; it also requires all journalists working on the island to obtain press accred-

itation from the government and to renew it annually, which Idrissa had not done. Idrissa, who held a press card issued by the union government, said he believed he was banned for criticizing the Zanzibar government for human rights abuses and bad governance. Local journalists said Zanzibar authorities were seeking to further muzzle the press in the run-up to general elections in October. In July Zanzibar authorities lifted the ban on Idrissa after he applied for and received press accreditation from the information ministry.

During the year media groups continued to call for the abolishment of what they deemed to be draconian legislative prohibitions. In addition they criticized the lack of legal protection for journalists' sources and whistle blowers. Journalists and NGOs belonging to the Media Law Reform Project continued to complain that the government deliberately weakened press freedom and limited information to the press through the Newspaper Registration Act—which grants the information minister wide discretion to suspend or close down newspapers—and the National Security and Broadcast Services acts. They also criticized the Prisons and Police acts, which prohibit journalists from writing about prisons or the police without obtaining prior permission from those organizations first.

In December the government ordered two local newspapers to temporarily cease publishing, accusing both of violating the 1976 Newspaper Act. The government also suspended the Swahili-language newspaper *Tanzania Daima* for three days for publishing a satirical picture and caption about the national debt, which was deemed offensive to President Mkapa; the newspaper was published by a media company associated with opposition presidential candidate Freeman Mbowe. In addition the government suspended the weekly tabloid *Amani* for 28 days due to alleged ethical violations in a November edition.

The government reportedly continued to pressure newspapers throughout the year to suppress or change unfavorable articles. There continued to be reports that the government withheld lucrative government advertising from newspapers deemed too critical of the administration. In addition, according to press freedom observers, the government attempted to weaken the media by maintaining prohibitively high taxes on newsprint and advertising.

Libel law, which imposes criminal penalties for defamation, intimidated journalists and caused many to practice self-censorship. While the law specifies that the plaintiff has the burden of proof for demonstrating malicious intent, many media observers criticized the courts for ignoring this provision, and for imposing heavy, politically motivated penalties on the media.

During the year the government cited public security as a pretext to suppress views that it found politically objectionable. On January 22, the independent Zanzibar newspaper *Dira*, which the Zanzibar government closed indefinitely in 2004, submitted another publishing license application to the Zanzibar government. At year's end *Dira* had not received a response to its application. In 2004 authorities said the license denial was necessary because the newspaper was a threat to national unity and had the potential to disrupt peace and solidarity in Zanzibar.

Lack of media access to government information remained a serious problem. Civil service regulations prohibit government workers from divulging government information to the media, effectively allowing only a handful of high-level government representatives to relay information to the media (see section 3).

During the year the Media Council operated with limited effectiveness as a mediator between the public and the media. It also sought to enforce the "voluntary" Code of Ethics of Media Practitioners and provided training through media clubs it supported, particularly on the laws of defamation and the implications of breaching such laws. It also sought to resolve defamation disputes before they reached a court of law.

According to MISA, freedom of the press continued to be threatened by lack of training, mediocrity, low salaries, and corruption in the profession of journalism.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The constitution provides for freedom of assembly, but the government limited this right in practice. Security forces interfered with citizens' rights to assemble peacefully, particularly for political rallies or demonstrations, on several occasions. To hold rallies, organizers are required to obtain police permission in advance. Police have the authority to deny permission on public safety or security grounds or if the permit seeker belongs to an unregistered organization or political party. During the year authorities arrested citizens for assembling without the appropriate permit.

The government prevented opposition parties from holding rallies during the year. In December police in Arusha used tear gas to disperse a campaign rally held by

Tanzania Labor Party presidential candidate Augustine Mrema. Police said the participants did not have a permit. Also in December police in Mara region shot tear gas and bullets in the air to disperse CUF supporters and prevent a demonstration. Several CUF supporters were injured and property was lost.

Prior to the Zanzibari elections, authorities on Zanzibar denied opposition parties access to the Donge constituency of Unguja island's Kaskazini region, as well as to Unguja's Ukuu constituency of Kusini region. In October the Zanzibar Electoral Commission (ZEC) rejected a CUF request to hold a campaign meeting in Donge constituency. During the confrontation in Mahonda that resulted from this denial, police fired tear gas and live bullets at CUF supporters, seriously injuring five persons.

Unlike in the previous year, there were no reports that the government banned individuals from addressing rallies.

Authorities forcibly dispersed religious gatherings during the year (see section 2.c.).

During the year the government maintained a ban on demonstrations by Uamsho (also known as the Islamic Revival or Center for Islamic Propagation), an umbrella organization for conservative Muslim organizations.

Unlike in the previous year, there were no reports that police used force to disburse student demonstrators.

Freedom of Association.—The constitution provides for freedom of association; however, the government limited this right in practice. The government sometimes denied the political opposition permits to hold rallies, imposed registration requirements for political parties, and unregistered parties were prohibited from fielding candidates (see section 3).

The registrar of political parties has sole authority to approve or deny the registration of any political party and is responsible for enforcing regulations on registered parties. Under the law citizens may not form new political parties independently but must comply with certain requirements to register them with the Office of the Registrar.

Parties granted provisional registration may hold public meetings and recruit members. Provisionally registered parties have 6 months to submit lists of at least 200 members in 10 of the country's 26 regions, including 2 of the 5 regions on Zanzibar, to secure full registration and to be eligible to field candidates for election.

During the year the government continued to implement the 2002 NGO Act, which requires all NGOs to register with a government-appointed NGO Coordination Unit (see section 4). Failure to register or meet any of the act's other requirements is a criminal offense. At year's end it was not known whether the Zanzibar Human Rights Association's registration request, which has been pending for several years; remained pending.

c. Freedom of Religion.—The law provides for freedom of religion; however, there were some limits on freedom of religion.

The government requires that religious organizations provide information to the registrar of societies at the Home Affairs Ministry. To register, religious organizations must have at least 10 followers and must provide a constitution, the resumes of their leaders, and a letter of recommendation from their district commissioner. Some Muslim groups claimed that they were still required to submit a letter of recommendation from the National Muslim Council of Tanzania. There were no reports that the government refused the registration of any group during the year.

The law prohibits preaching or distribution of materials that are considered inflammatory and represent a threat to the public order. During the year the government occasionally denied permission to religious groups seeking to hold demonstrations when there was a perceived likelihood that the gathering could become confrontational or inflame religious tensions. In May district authorities in Mbeya denied a permit to the Salvation Pentecost of Tanzania International, claiming that the group's recent evangelical public meetings had turned into abusive campaigns against Islam. In June Zanzibar police denied Uamsho permission to demonstrate against police beatings; the protest did not occur and no one was arrested.

In August police arrested two Christian women in Dar es Salaam for burning a copy of the Koran. Police charged them, but by year's end there was no further information on the progress of the case.

Unlike in the previous year, there were no reports that police used force or tear gas to disperse a demonstration by—or arrest members of—Uamsho.

At year's end the case of two Uamsho leaders facing charges in connection with demonstrating without a permit in 2004 was still pending.

The Zanzibar government continued to harass Islamic activist Sheikh Kurwa Shauri. In May Zanzibari authorities prevented Shauri from alighting after he flew

to the islands. In 2004 Zanzibari authorities deported Shauri to Dar es Salaam, in accordance with a 1993 government order by then President Salim Amour, which banned Shauri from the islands after he was accused of disrupting the peace and fomenting inter-religious conflict.

During the year the government maintained a ban that has prohibited religious organizations from engaging in politics since the 1990s. In addition politicians were prohibited from using language intended to incite one religious group against another, or to encourage religious groups to vote for certain political parties. The law imposes fines and jail time on political parties that campaign in houses of worship or educational facilities. However, several religious leaders sought involvement in politics, and no sanctions were imposed during the year. In September Dar es Salaam Regional Commissioner Yusuf Makamba, a Muslim, warned Christians that churches should not be used to further the interests of any political parties.

Government policy forbids discrimination against any individual on the basis of religious beliefs or practices. However, some Muslim groups continued to charge that the government discriminated against them in government hiring, education, and law enforcement practices. The Muslim community claimed to be disadvantaged in terms of its representation in the civil service, government, and parastatal institutions.

Muslim leaders complained that the number of Muslim students invited to enroll in government-run schools was not equal to the number of Christian students. In response some Christian officials said that the preference of most Muslims to enroll their children in Muslim religious schools instead of mainstream government schools caused such societal inequities.

The Mufti Law authorizes the president of Zanzibar to appoint an Islamic leader, or *mufti*, who serves as a public employee of the Zanzibar government. On Zanzibar the mufti has the authority to approve or deny the registration of Islamic societies and supervise Zanzibari mosques. The Mufti Law is controversial because some Muslim groups believe it gives the Zanzibar Government undue influence in religious affairs.

Societal Abuses and Discrimination.—Religious societal violence occurred on occasion. On April 10, unidentified individuals burned down a Catholic church in the Mikese district of Morogoro region. Investigations were still pending at year's end. In September young Muslim men entered a Dar es Salaam church and beat a pastor and a deacon, who had to seek hospital treatment for his injuries. A few days after this incident, an unidentified person threw stones through the windows of the same church, breaking one window. Police were investigating this case at year's end. Also in September Muslim youths entered a primary school in the Temeke district of Dar es Salaam and beat a group of religion teachers for teaching Muslim students about Christianity.

During the year there were reports that at certain Muslim religious rallies in urban centers, some participants publicly criticized Christianity, which, on occasion, resulted in fighting. While Muslim-Christian relations remained generally stable in rural areas, tensions increased during the year in Zanzibar. In August CUF Secretary General Seif Sharif Hamad stated that Christians in Zanzibar were being oppressed by Muslims. The government made some efforts to resolve the tensions between Muslim and Christian communities. During the year Foreign Minister Jakaya Kikwete, a Muslim, attended fund raising events at the African Inland Church and at the Lutheran Church. In May Union President Mkapa called for religious toleration in the country.

There was one report of a religiously motivated act of vandalism. During the year unidentified persons burned down a church on the mainland. Members of the church continued to meet and worship at the site, and a few days after the fire individuals returned and threw stones at the church members.

There were signs of increasing tension between secular Muslims and conservative Muslims, as the latter believed that secular Muslims had joined with the government for monetary and other benefits. Some Muslim groups accused the government of being a Christian institution, and also accused the CCM presidential candidate of not being a real Muslim.

The Jewish population was very small, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 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; however, bureaucratic inefficiency and corruption hindered compliance, and respect for the right of asylum deteriorated during the year.

Mainlanders were required to show identification to travel to Zanzibar, although the requirement largely was ignored. Zanzibaris needed no special identification to travel to the mainland. Mainlanders were not allowed to own land in the islands, except in partnership with foreign investors.

Police and the TPDF sometimes set up roadblocks in rural parts of the country and in Zanzibar. Government officials manning these roadblocks sometimes solicited bribes to allow passage.

Passports for foreign travel were difficult to obtain at times, mostly due to bureaucratic inefficiency and official demands for bribes.

The law does not permit the forced exile of citizens, and the government did not use forced exile in practice.

After the October 30 presidential election on Zanzibar, approximately 100 Zanzibaris claiming to be CUF members fled to Kenya, reportedly for fear of persecution by pro-CCM government forces.

During the year the LHRC alleged that the director of immigration continued to use the Citizenship Act to reject citizenship for reasons of personal prejudice.

The citizenship of Ali Nabwa, the managing editor of *Dira*, had not been restored by year's end; however, he had not been deported.

Protection of Refugees.—The law provides for the granting of refugee status and asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government frequently did not provide protection against *refoulement*, the return of persons to a country where they feared persecution.

During the year the government instituted a separate evaluation system for asylum-seekers from Burundi and the Democratic Republic of the Congo (DRC). Cases brought by Burundians and Congolese were reviewed by an ad hoc committee which included local officials from the immigration office and the minister of home affairs (MHA). The cases of asylum-seekers from countries other than the DRC and Burundi continued to be reviewed by the National Eligibility Committee. The final authority to determine refugee status rests with the MHA, who was authorized to accept or reject the decision of the NEC or an ad hoc committee regarding applications for asylum. The minister may also decide cases individually.

The MHA can declare any group of persons to be refugees by giving notice in the government gazette, and the government's prior determination that Burundians and Congolese are *prima facie*, or presumed, refugees was still on record. However, by year's end the government applied eligibility procedures to new arrivals from Burundi and DRC, casting doubt on the status of this *prima facie* determination.

During the year the government occasionally refused entry to Burundians and Congolese seeking asylum or refugee status at the border and failed to conduct an ad hoc committee evaluation. It also rejected the claims of some asylum seekers after they had entered the country and had had an evaluation by the NEC or the ad hoc committee, immediately giving custody of them to the immigration services for deportation; the rate of refusal for Burundian asylum seekers was notably higher than that of Congolese asylum seekers, raising the question of disparate treatment. For example on February 1, the UNHCR said the government forcibly repatriated nine asylum seekers to Burundi. In addition, in December the government denied asylum status to 200 Burundians whom the government returned after determining that they had immigrated due to food security issues caused by a drought and therefore were not entitled to refugee status. These individuals' cases were not reviewed by an ad hoc committee, but they did have the opportunity to meet with UNHCR officials after returning to Burundi. Based on interviews, UNHCR officials verified these individuals had immigrated due to drought and food insecurity; however, these interviews were conducted in these individuals' country of origin, leaving open the possibility that pressure prevented them from being completely candid.

The government did not always cooperate with the UNHCR during the year. For example on some occasions, the government did not allow the UNHCR to be present at screenings for refugees as they arrived at the border and did not inform the UNHCR about the arrival of new asylum seekers.

At year's end the number of UNHCR-assisted refugees in the country was approximately 350,590. The refugee population, which included approximately 195,377 from Burundi, and 150,112 from the DRC, resided in 14 UNHCR-assisted camps in the northwest. There were also approximately 200 thousand Burundian refugees who arrived prior to 1994 who were not being assisted by the UNHCR. In addition there were approximately 2,663 Somalis living in a coastal settlement camp receiving some UNHCR assistance. The Government agreed to review the Somali refugee cases for naturalization on an individual basis and granted naturalization for 182 Somali refugees.

Burundian refugees continued to return home under the perceived threat of refoulement. For example during the year the Kibondo District Commissioner repeatedly visited camps and urged refugees to return home. The UNHCR, with strong encouragement from the government, increased efforts to facilitate returns to designated areas in Burundi that were considered secure. In October the UNHCR also began voluntary repatriation of refugees to the DRC.

It is illegal for refugees to live outside of the camps or settlements, or to travel outside of their respective camps, although they are permitted to collect firewood within four kilometers of their camps. However, refugees often traveled more than 5 miles outside of camp to collect firewood because local supplies were inadequate. These refugees, usually women and children, were subject to theft, physical abuse, and rape. This restriction of movement, along with the discouragement of—and restriction of the possibilities for—self-reliance and local integration, had the result of encouraging repatriation. Refugees caught outside the designated areas were arrested and imprisoned for up to six months or made to pay a fine of approximately \$43 (50 thousand shillings), a large sum for individuals who had a very meager or no source of income. These provisions were enforced rigorously. Refugees and asylum seekers found outside camps without permits have also been prosecuted for unlawful presence under the Immigration Act, under which violators could be deported immediately or, if charged and convicted, imprisoned for two years followed by deportation to the countries from which they sought refuge. The government's application of immigration laws to refugees instead of applying the Refugees Act continued to be a problem. Sentences under Immigration laws are more stringent than those under the Refugees Act. After serving their sentences under the Immigration Act, asylum seekers and refugees often were issued prohibited immigrant notices and deported. Relatives of the accused often were not notified of their detention.

There were reports that police based in refugee camps sexually exploited female refugees. Women and children sometimes engaged in prostitution in the refugee camps.

The UNHCR, with government cooperation, continued to provide security for refugees; however, during the year crime—including killings, robberies, rapes, and domestic violence—was a serious problem in and around the refugee camps. The government did not adequately investigate, prosecute, or punish perpetrators of abuses in refugee camps and often attributed any crime committed near a refugee camp to the presence of the camp in the area, regardless of any involvement by refugees. There were mediation councils in the refugee camps and police patrols in the camps, but many cases were not referred to local authorities. National courts did not adequately prosecute most cases involving refugees, including rape and murder cases. Refugee camps were affected by delays and limited access to courts, common problems facing the Tanzanian nationals as well.

Government officials blamed refugees for crime in the area surrounding the camps; however, it was unclear who was responsible for the crimes. According to Refugees International, during the year several refugees complained repeatedly about the inaction of police and refugee security guards and their lack of capacity to prevent violence and provide protection.

There were reports that some refugees engaged in vigilante justice within camps, occasionally beating other refugees. There was significant hostility and resentment against Burundian refugees during the year and continuing concern regarding violence allegedly perpetrated by some armed Burundian and Rwandan refugees. Local officials reported incidents of banditry, armed robbery, and violent crime in the areas surrounding refugee camps, and alleged that refugees were the perpetrators. On June 19, a police officer and a refugee were reported dead in the Mtendeli camp; no additional information was available at year's end.

Antirefugee sentiment among the 2 million citizens living in refugee-affected areas of the country was high due to pressure on local resources; the belief that refugees were responsible for an increase in crime, small arms trafficking, HIV/AIDS, and environmental degradation; and the provision of goods and services for refugees that were not available to the local population. However, many services offered by the UNHCR, NGOs, and international organizations, in particular health care and road improvement projects, were available to the local population.

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

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in elections on the mainland and in Zanzibar. However, legal and financial provisions that favored the ruling CCM party, electoral irregularities, and political violence limited the effectiveness of the electoral process.

Elections and Political Participation.—Separate elections are held on the mainland and on Zanzibar, though they may be held on the same day. All citizens of Tanzania elect local officials, members of the national parliament and a *union* (national) president. In addition Zanzibaris elect a president of Zanzibar and members of the Zanzibar House of Representatives in polls that are not open to mainlanders.

On December 14, Jakaya Kikwete, the CCM candidate, was elected president of the Union with 82 percent of the vote in an election widely considered by observers as freer and fairer than previous elections; the election was originally scheduled for October 30, but was postponed due to the death of one of the vice presidential candidates. In National Assembly elections, the CCM won 206 out of 233 elected seats in the union parliament, while the CUF won 19.

On October 30, voters in the semi-autonomous archipelago of Zanzibar elected a president, legislators, and local representatives for the archipelago. CCM candidate Amani Karume, the incumbent president, won the Zanzibari presidency with 53 percent of the vote in an election marred by irregularities. Seif Sharif Hamad, the CUF presidential candidate garnered 46 percent of the vote. In elections for Zanzibar's 50-seat House of Representatives, the CCM won 30 seats while the CUF won 19.

While international observers of the October 30 Zanzibari elections noted improvements in the election process compared to previous years, some international observers called for an independent investigation, citing serious irregularities, including the failure of the ZEC to release the permanent voters register (PVR) until the day before the polling day; inaccuracies in the PVR; incidents of underage and multiple voting; incidents of registered voters being turned away from the polls; and the cancellation of election results for the Dole voting district due to a shortage of ballot papers. CUF leaders also called for an investigation, charging that there was intimidation, fraud, and mismanagement at the polls. They accused the government of transporting pro-CCM voters—often from the mainland—into pro-CUF voting districts, where they allegedly were allowed to vote multiple times. They also accused the ZEC of disenfranchising 47 thousand voters and failing to disclose names on the PVR.

While the December 14 union elections were generally peaceful on the mainland, the campaigns preceding them were marked by violence in some regions. In October there were reports of political violence on the mainland between CCM supporters and opposition supporters from UDP, Chadema, and CUF. For example in Bukoba region at least 35 residents reportedly suffered injuries when supporters of CCM and CUF beat each other. Also in October, police in Bariadi, Shinyanga, arrested several CCM members, including the wife of a prominent government official, for assaulting UDP opposition party members. On October 30, CUF members in Tanga region beat a CCM member after the individual allegedly walked into a CUF campaign meeting wearing a CCM T-shirt and cap.

In November police in Mwanza arrested two individuals for assaulting CCM presidential candidate Jakaya Kikwete during a rally in Mwanza. At year's end the case was pending in court. Also in November the Shinyanga regional commissioner told the press he had issued a warning to political party leaders in his region following a spate of violent skirmishes at some campaign meetings in several districts.

In Zanzibar both the Zanzibari and the national elections were marred by violence. At some registration sites, there were violent confrontations between paramilitary forces and citizens, one of which resulted in death (see section 1.a.). In addition, during the December 14 union elections, approximately 20 persons were injured, some seriously, in violence in Zanzibar. There also were instances of violence near polling centers between locally registered voters and non-locals who were allegedly trying to cast votes where they were not registered to vote. For example a member of the Janjaweed, an allegedly progovernment gang, stabbed a man in Stone Town who was trying to prevent voting and election interference by non-locals.

After polling day for union elections, Zanzibar police accused supporters of the CUF of instigating the violence and arrested at least 46 individuals. There was no information available regarding whether these individuals had been released by year's end.

Unlike in the previous year, there were no reports that the youth wings of the CCM and CUF parties attacked political leaders or vandalized property.

The government restricted political opponents by denying their permit requests to hold rallies, harassing them, and detaining them for short periods of time (see section 1.d.). For example on July 18, Dar es Salaam police detained for a few hours and interrogated Professor Ibrahim Lipumba, CUF's presidential candidate in the December 14 elections, for making statements on the mainland that were "disturbing." In addition Zanzibari police traveled to Dar es Salam and interrogated him separately the same day.

Police beat individuals and used tear gas to disperse campaign rallies conducted by opposition parties (see sections 1.c. and 2.b.).

Individuals and parties could freely declare their candidacy and stand for election; however, there were government restrictions on political opponents. The law prohibits independent candidates who are not representing a registered political party, requires all registered political parties to support the union with Zanzibar, and forbids parties based on ethnic, regional, or religious affiliation.

CCM's candidates have been elected repeatedly since the country's first multiparty election. Its political dominance has been due partly to restrictions on the political opposition. In addition the election law provides for outgoing parliamentarians to receive 17 thousand dollars (20 million shillings) as a "gratuity," which incumbents used in campaigns to facilitate their reelection. Several NGOs and opposition parties criticized this provision, saying that it made it extremely difficult for aspiring parliamentary candidates from the opposition parties to mount an effective and fair competition.

The law requires that women occupy at least 30 percent of seats in parliament. Women are appointed by their respective political parties to serve in 75 special seats. There were 91 women in the 320-seat parliament at year's end. Women occupied 18 seats in the 81-seat Zanzibar House of Representatives and held 4 positions in the cabinet of the Zanzibar government. During the year one woman served as a justice of the Court of Appeal of Tanzania.

Government Corruption and Transparency.—Despite significant changes in the past decade, corruption remained a pervasive problem throughout the government. There was a strong public perception of corruption in the executive and legislative branches.

There was little accountability in most government entities. The Ministry of Finance estimated that 20 percent of the government's budget in each fiscal year is lost to corruption, including theft, fraud, and fake purchasing transactions. According to the controller auditor general's annual report, the Ministry of Health could not account for more than half of its budget in 2004. Transparency International reported in its 2005 Corruption Perceptions Index that citizens perceived slightly less corruption than in 2004 but considered corruption to be a "severe" problem.

Corruption was especially rampant during the election campaign period. Human rights observers, members of the political opposition, and legal experts continued to accuse the CCM of engaging in corruption during elections. The groups based their accusations on CCM's use of election law provisions that allow candidates to offer hospitality, gifts, and favors—known as *takrima*—to constituents during campaigns. The law does not define limits on the form, amount, or duration of the hospitality that can be provided, which critics said provided a significant "loophole for corruption," particularly because the CCM received significantly greater government subsidies under the law than other parties. During the year's debate on the ethical nature of *takrima*, some political figures said the law permitting *takrima* promoted the African tradition of providing hospitality and encouraged citizen participation in the electoral process; however, many observers expressed concern that the practice of *takrima* gave the ruling party undue influence.

During the electoral campaign, there were reports that aspirants distributed cash, mobile phones, and other rewards to voters. Some citizens accused the Prevention of Corruption Bureau (PCB), the government's lead anticorruption entity, of being ineffective in combating corrupt practices. CCM Secretary General Philip Mangula criticized the PCB for failing to curb corruption in the electoral process and said the word "*takrima*" had become a euphemism for corruption.

The government continued to use specialized agencies to fight corruption during the year. The Good Governance Coordination Unit (GGCU) is charged with implementing anticorruption legislation, coordinating anticorruption efforts, and collecting information from all the ministries for publication in quarterly reports; however, this three-person unit continued to be severely under-resourced.

The PCB is responsible for investigating cases of corruption on the mainland and referring them to the courts for prosecution. The PCB does not operate on Zanzibar, lacks constitutional recognition, and is under the authority of the office of the president. These factors hindered its ability to resist political pressures and prosecute high-level corruption cases. The PCB's director general serves at the pleasure of the president and had no security of tenure. During the year the PCB continued to refer cases to the director of public prosecution (DPP); however, the prosecution of corruption cases remained slow and inefficient. The PCB usually required two years to investigate a case of corruption. If the PCB referred the case, the DPP typically required an additional two years to review the case's merits and decide whether to prosecute it. Only about 5 percent of corruption cases reported to the PCB's regional offices during the last five years have been heard by a court of law. Anticorruption

activists criticized the government for not providing the PCB with the capacity to monitor the implementation of recommendations that the PCB made to institutions.

Between 1995 and June 2004, the PCB received 10,319 reports of corruption and investigated 9,507 of them. Of the cases investigated, 357 were prosecuted, resulting in 48 convictions. According to the PCB, most corruption-related complaints involved mining, land matters (particularly title deed fraud), energy, and investment. According to anticorruption NGOs, most allegations of corruption involved the Tanzania Revenue Authority, local government officials, licensing authorities, hospital workers, and the media.

The government continued its efforts to curb corruption. During the year the government investigated and prosecuted some cases of corruption; however, no high-level government leaders were tried on corruption charges during the year. Several primary court magistrates also were arrested for corruption, and the cases were pending at year's end. In 2004 the government raised the wages of civil servants to reduce the temptation to commit corruption and provided for an average of 100 new investigators to join the PCB each year.

There was no additional information on the case against a Mbulu district magistrate arrested on charges of bribery in July 2004, or the case against two members of the Iringa Crimes Office, arrested for bribery charges in November 2004.

The case of a top administrator of Zanzibar's Joint Presidential Supervisory Commission accused of embezzling donor funding in 2004 remained pending at year's end.

The Zanzibari House of Representatives denied the request of the Union government's Ethics Secretariat to open an office on the isles because it was in the process of establishing its own secretariat. An office of the Commission for Human Rights and Good Governance existed on the isles, but at year's end it had not received a permit from the Zanzibar government to investigate corruption cases.

During the year the government amended the constitution to provide for access to information; although the amendment makes no explicit mention of information that is held by the government. In practice citizens' access to government information remained very limited. Government officials estimated that 90 percent of all government documents were classified, including administrative forms. According to access to information advocates, the National Security, Broadcasting Service, Newspaper, Prisons, and Police acts blocked public access to government information (see section 2.a.). There was no mechanism for appealing denials, and many citizens continued to call for the amendment of these laws.

By law, persons holding certain public offices must make a formal declaration of their wealth to the Public Leaders' Ethics Secretariat, but the declaration forms were not made public, and it remained difficult for members of the public or journalists to gain access to this information. Persons seeking to access a form were required to pay a fee of about \$3 (3 thousand shillings) and provide written justification for the request. Some of the forms were shared with the PCB during the year.

Parliament continued to use the Parliamentary Online Information System (POLIS) to increase access to government information. POLIS was intended to make politics and policy-making more understandable and accessible to the public. By year's end POLIS' reach remained limited, since only about 300 thousand of the country's 37 million citizens had Internet access.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to the views of NGOs; however, the government-mandated registration process has been used to limit NGO activities. Many human rights organizations reported the government did not respond or was slow to respond to requests for information. The government of Zanzibar reportedly interpreted the existence and actions of NGOs as antigovernment. In addition there were reports that many parliamentarians harbored mistrust towards NGOs and believed they existed solely to make money.

Active domestic human rights NGOs included the Center for Human Rights Promotion, the LHRC, Tanzania Media Women's Association (TAMWA), and Tanzania Women Lawyers' Association. There were also many smaller local human rights NGOs based outside of Dar es Salaam. The Zanzibar Legal Services Center was one of the few active human rights organizations on Zanzibar. All of these organizations were independent of the government.

Government representatives met with domestic human rights NGOs, and participated in training seminars on subjects including international humanitarian law, FGM, child labor, trafficking in persons, and women's rights.

The 2002 NGO Act, which does not apply to Zanzibar, requires all NGOs to register with a government-appointed NGO Coordination Unit within the Vice President's office (see section 2.b.). Before the act was implemented, NGOs expected that it would be used to limit their operations, and that the government could use the denial of registration as a political tool. However, since implementation of the act, many NGOs have said they viewed the act as beneficial. From February through December, more than 500 NGOs (some new and some pre-existing) registered with the NGO Coordination Unit.

The government of Zanzibar has not responded to requests for registration by the African Human Rights and Justice Protections Network, which has been pending since 1994.

On September 8, the Ministry of Education and Culture banned Haki Elimu, a domestic NGO, from publishing articles or studies on schools and directed school inspectors to take stern measure against any school or college which did not adhere to the directives. The government claimed the NGO disparaged the education system and failed to conform to ministry directives. Other NGOs called for the government to lift the ban, reminding the government of its stated commitment to transparency and accountability in the education sector.

The Prevention of Terrorism Act, which imposes strong sanctions on NGOs suspected of ties to terrorism, was in the process of being implemented at year's end; however, Muslims believed it unfairly targeted their religiously affiliated NGOs.

There were a few reports that human rights NGO workers were victims of crime, but the attacks were not a result of their work with NGOs. The government took steps to investigate these matters.

There were no developments in the May 2004 killing of an NGO worker in Ngara district by unidentified armed assailants.

During the year journalists began the process of registering the Human Rights Press Club, which was created in 2004, as an NGO and changed the name to Human Rights Media Action. The group met several times during the year to research, monitor, investigate, and report on relevant human rights problems. At year's end the group was in the final stages of registering as an NGO.

Relations between the government and the UNHCR, which maintained a sizable presence for the operation of the country's 13 refugee camps, were occasionally strained during the year (see section 2.d.).

The Commission for Human Rights and Good Governance operated with the government's cooperation; however, the commission was underfunded, understaffed, and overburdened by a caseload of unresolved complaints. The commission conducted investigations into human rights abuses committed by the government, companies, and individuals. The commission is also mandated to act as a plaintiff in a trial; however, it does not have judicial powers. Furthermore, it has no jurisdiction over matters pending before a court or other tribunal (the commission can recommend remedies but courts must decide on them), any dispute that involves the president of the country or president of Zanzibar, or relations between the government and a foreign state or international organization. The commission had no legal mandate to operate in Zanzibar but retained an office there.

The government continued to host the International Criminal Tribunal for Rwanda War Crimes (ICTR) in Arusha, and the government was supportive of and cooperated with the ICTR.

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

The constitution prohibits discrimination based on nationality, ethnicity, political affiliation, race, or religion; however, the government did not always effectively enforce these prohibitions. Discrimination based on sex, age, or disability was not prohibited specifically by law but was discouraged publicly in official statements and by government policies. Discrimination against women, refugees, minorities, and persons with HIV/AIDS persisted; and societal ethnic tensions continued to be a problem.

Women.—Domestic violence against women remained widespread. The law does not specifically prohibit spousal battery. Cultural, family, and social pressures prevented many women from reporting abuses to authorities, and action rarely was taken against perpetrators of physical abuse of women. Police often had biases against pursuing domestic abuse cases. There was no available information about the number of domestic abusers prosecuted or convicted.

Traditional customs that subordinated women remained strong in both urban and rural areas, and local magistrates often upheld such practices. Wife-beating was an acceptable practice and occurred at all levels of society. Some women were punished by their husbands for not bearing children. TAMWA estimated that as many as 50 percent of women were beaten by their husbands. The courts recognize domestic vio-

lence as grounds for divorce, and women who sought advice from mainland legal aid clinics most commonly cited domestic abuse as the reason for wanting a divorce. Generally women tolerated domestic abuse for a long time before seeking a divorce.

The law provides for life imprisonment for persons convicted of rape; however, rape continued to be a serious problem. Several persons were prosecuted and convicted for rape and battery under the law during the year. Sexual and gender-based violence continued to be a problem in the refugee camps (see section 2.d.).

There was no available information on the prevalence of rape. One official estimated in 2003 that the majority of rape cases went unreported, and only 5 percent of actual rape cases were filed in a court of law. According to a Zanzibar high court judge, courts often rejected cases due to a lack of evidence. Some police reportedly advised rape victims to clean themselves before going to hospitals for examinations, which contributed to the removal of important evidence. During the year Zanzibar's Ugunja island had one hospital that conducted post-rape examinations. This hospital was private, and the law requires post-rape examinations to be conducted at government hospitals. In addition, since rape victims had to wait for as long as six days for examinations, much crucial evidence was lost. The only public hospital on Pemba Island continued to conduct post-rape examinations only once a week. Rape and sexual abuse of girls and women with disabilities reportedly was prevalent during the year.

The law partially criminalizes FGM by prohibiting its practice on any female younger than 18 years of age; however, enforcement continued to be lax. At the beginning of the year an estimated 18 percent of the country's female population, about 4 million women, had undergone FGM. Data from anti-FGM activists suggested that the prevalence of the procedure was declining, but also suggested that the average age of victims had decreased to less than 10 years old, with some newborns reportedly undergoing FGM. In Singida region, FGM was often performed on infants who had become sick with malaria or other diseases so that any deleterious effects resulting from the procedure would not raise suspicion among neighbors and relatives. FGM was practiced by approximately 20 of the country's 130 tribes and was most prevalent in 11 mainland regions, including Arusha, Singida, Kilimanjaro, Morogoro and Dar es Salaam. In the rest of the country, FGM was practiced by less than 5 percent of the population. The most common types of FGM were the excision of the clitoris and labia minora; however, infibulation, the most severe form of mutilation, was also practiced, mainly in the northern highlands and the central zone.

Penalties for practicing FGM on females under 18 range from 5 to 15 years of imprisonment, or a fine not exceeding \$277 (300 thousand shillings), or both. The law does not establish a minimum fine and does not provide legal protection for women 18 years of age or older. The law was largely perceived to target the parents or relatives of the victim; it was not widely perceived to target the practitioners, or *ngaribas*, hired to perform FGM.

There were reports of at least two FGM-related arrests and prosecutions during the year, and at year's end those cases were pending. Enforcement of the anti-FGM law was difficult because many police officers and many communities were not aware of the law; police did not have adequate resources to protect victims; and victims were often reluctant to testify against family members and neighbors who forced them to undergo FGM. Some witnesses feared reprisals from supporters of FGM.

Corruption also made it difficult to enforce the anti-FGM law. Some villagers reportedly have given local leaders sums as great as \$277 (300 thousand shillings) to be allowed to have their daughters circumcised without fear of arrest or prosecution. In addition most cases have been dismissed from courts under the pretense of lack of evidence, often despite strong evidence from the victims and even confessions from their parents or guardians, or the FGM practitioners.

The government continued to implement the National Plan of Action for the Elimination of FGM, a five-year strategy to eradicate the procedure by involving the practitioners, community leaders, men, and women. However, anti-FGM activists continued to criticize the central government for its lack of commitment to hold some members of parliament and local government officials accountable for failing to enforce the anti-FGM law.

During the year the government and NGOs made some progress in reducing the practice of FGM. In September and October, two traditional healers, including one who banned FGM among his tribe, said they would stop performing FGM and fight the practice. They also discussed alternative sources of income. During the year the Anti-Female Genital Mutilation Network (AFNET) and a coalition of anti-FGM NGOs engaged in awareness-raising activities and conducted research on FGM.

During the year anti-FGM groups continued to sensitize the ngaribas about the harmful effects of FGM and to train them for other occupations.

Reducing the practice of FGM remained difficult because some regional government officials favored or profited from the practice, or feared speaking out against it because of the perceived political consequences of opposing FGM and the power of traditional leaders who supported FGM. Some communities that were aware of the law prohibiting FGM viewed it as an unjust threat to a cultural tradition. A lack of medical information on the harmful and long-term health effects of FGM remained a problem. Many communities believed FGM increased fertility, reduced sexual desires leading to prostitution, and reduced infant mortality. Many fathers believed they would receive higher "bride prices" for daughters who had undergone FGM. In addition practitioners of FGM, ngaribas, relied on the practice for income. Cash payments usually varied between \$1 (1 thousand shillings) and \$5 (5 thousand shillings), which were considerable amounts since the gross national income per year was \$330; non-cash payments have involved one goat per circumcision performed.

The law prohibits prostitution; however, prostitution, including child prostitution, remained common. Poor rural woman and young girls immigrating to urban areas were most at risk. There were reports during the year that female refugees engaged in prostitution.

The law prohibits sexual harassment against women in the workplace. Male colleagues sometimes harassed women seeking higher education, and the authorities largely ignored the practice. The extent of the problem was unknown.

The law provides for equality of woman; however, inheritance, marriage, and land laws do not consistently support full equality, and in practice women's rights often were not respected. The Ministry of Community Development, Women, and Children and the Ministry of Justice were responsible for protecting the legal rights of women. Women generally were not discouraged from seeking employment outside the home; however, in the public sector, which employed 80 percent of the salaried labor force, certain statutes restricted women's access to some jobs or hours of employment (see section 6.e.). While progress on women's rights was more noticeable in urban areas, strong traditional norms still divided labor along gender lines and placed women in a subordinate position. Discrimination against women was most acute in rural areas, where women were relegated to farming and raising children and had almost no opportunity for wage employment.

Civil society activists reported widespread discrimination against women in matters of inheritance. The Land Act and the Village Land Act provide individuals, regardless of gender, the right to use, transfer, and own land. A right of occupancy may be acquired by transfer or application for purchase and provides the basis for a court action if property is taken. The land courts that hear these cases were established by year's end. Women's rights of co-occupancy were recognized by the law; however, this provision was not enforced in practice, and married women whose unions had not been legalized under customary, Hindu, Muslim, Christian, or civil marriage laws were particularly vulnerable when they divorced or their husbands died. In July Zawadiel Mchome, the Singida regional administrative secretary, said that robbing widows of property left by their husbands had become common in the region.

The country's immigration laws discriminate against women by penalizing women who marry foreigners. If a Tanzanian woman marries a foreign man, the foreign man is not eligible to apply for citizenship or a residency permit. Since the government does not recognize dual citizenship, the Tanzanian woman who marries a foreign man may have difficulty residing legally in the country, and in practice the woman may be forced to give up her Tanzanian citizenship. This increasingly was a problem in the refugee camps for women who married Burundian men.

Women in Zanzibar and on many parts of the mainland faced discriminatory restrictions on inheritance and ownership of land and other property because of concessions by the government and courts to customary and Islamic law (see section 1.e.). For example many of the regional tribal laws that compose the country's customary law completely prohibit widows from inheriting land from their deceased husbands, even when land is marital property, and subject the widows to being inherited by men from her husband's family. While provisions of the Marriage Act provide for certain inheritance and property rights for women residing on the mainland, the act is not applicable in Zanzibar. In addition the application of customary, Islamic, or statutory law depended on the lifestyle and stated intentions of the male head of household. The courts have upheld discriminatory inheritance claims, primarily in rural areas.

Under Zanzibar law, unmarried women under the age of 21 who become pregnant were subject to two years' imprisonment (see section 1.f.).

Several NGOs organized workshops and seminars, and some ran legal aid clinics, addressing a wide range of women's rights issues.

Children.—The government's commitment to children's rights and welfare was evidenced by increased funding of programs for children's welfare during the year. The government made some constructive efforts to address children's welfare, including working closely with the UN Children's Fund (UNICEF) and other international and local organizations to improve the well being of neglected children and of the country's estimated two million orphans.

The law provides for 7 years of compulsory education through the age of 15. Primary education was compulsory, free, and universal on both the mainland and Zanzibar; however, there were inadequate numbers of schools, teachers, books, and other educational materials to meet the demand. In 2004 fees were charged for enrollment beyond form two, the equivalent of the second year of high school; as a result some children were denied an education. During the year the government reduced school fees by half and provided subsidies to cover the remaining fees through a secondary school development program. In some cases parents had to pay for books and uniforms, and some children were unable to attend school because poorly paid teachers demanded money to enroll them, or because teachers were absent.

UNICEF stated that the net primary school attendance rate was 47 percent for boys and 51 percent for girls. In a few regions the rate of enrollment in school for girls generally declined with each additional year of schooling, largely because girls often had to care for younger siblings, do household work, and enter early marriages, often at the behest of parents. Only 2 percent of boys and 3 percent of girls attended secondary school. The practice of forcing pregnant girls out of school continued.

On March 11, the Ministry of Education inaugurated a special education fund. The fund's purpose was to increase children's access to education and address the gender imbalance among secondary- and tertiary-level students, which disadvantaged girls. During the year the fund facilitated the creation of a number of child-friendly schools with better facilities, the refurbishment of infrastructure, and the provision of lunch to primary school students.

Corporal punishment in schools was a problem.

During the year children up to five years of age had access to healthcare in government hospitals. A government program provided free pregnancy treatment and delivery services for expectant mothers. The program was hampered in many cases by a lack of implements. NGOs worked together with the government to provide affordable health services.

During the year several NGOs, including UNICEF and World Vision, had HIV/AIDS awareness programs for children.

Child abuse remained a problem. There were many convictions during the year for the sexual abuse of children. Most of the convicted persons were given the maximum sentence of 30 years.

FGM was performed on girls (see section 5, Women).

Under the law sexual intercourse with a child under 18 years is considered rape regardless of consent; however, the law was not effectively enforced. In an apparent contradiction, the law provided for girls as young as 15 to be considered adults for the purposes of marriage and sexual intercourse. In order to marry, a female who had not attained the apparent age of 18 years was required to obtain the consent of her father, mother, or guardian. An orphaned girl with no guardian who desired to get married at 15, 16 or 17 needed no consent. The courts had discretion to allow the marriages of parties who were 14 years old if they were satisfied that there were special circumstances which made the proposed marriage desirable. Additionally, the law allows marriage for African-Asian girls as young as 12 so long as the marriage is not consummated until she reaches the age of 15.

During the year the government imposed the Penalties for Persons who Marry or Impregnate School Girls Regulations under the Education Act, which was intended to stop the practice of early marriages and pregnancies among youths. Although there were many attempts to prosecute such cases, the courts were rarely able to convict suspects due to lack of evidence and the hesitation of girls and their parents to convict the father of the unborn child.

The law criminalizes child prostitution, and sexual exploitation and trafficking in persons, including children, were problems. There were cases in which children engaged in prostitution for economic survival with the involvement and knowledge of family members (see section 5, Trafficking).

Unlike in the previous year, there were no reports that children were recruited from the country's refugee camps for use as child soldiers.

Child labor was a problem (see section 6.d.).

During the year the press reported many cases of the infanticide of both male and female children. The government prosecuted many females during the year for discarding the bodies of new-born babies, including two mothers who received 16-year prison sentences.

UNICEF estimated there were two million child orphans, most of them orphaned by AIDS. There were significant numbers of street children in both Dar es Salaam and Arusha. Street children had limited access to health and education services because they lacked a fixed address and money to purchase medicines, school uniforms, or books. They were also subject to sexual abuse by older street children and persons without a fixed residence. In the refugee camps, orphans were generally absorbed into other families and those who were not absorbed generally qualified as extremely vulnerable individuals and received additional support and counseling.

Trafficking in Persons.—The law does not prohibit all forms of trafficking, and there were reports that women and children were trafficked to, from, and within the country for the purposes of forced labor and sexual exploitation. The Sexual Offences Special Provisions Act prohibits internal and cross-border trafficking for sexual exploitation, the constitution prohibits forced labor, and the Employment and Labor Relations Act of 2004—which became a law during the year—specifically prohibits forced labor by children. Trafficking was punishable by 10 to 20 years' imprisonment or a fine of between \$100 (100 thousand shillings) and \$300 (300 thousand shillings). Other laws could be used to prosecute trafficking, such as labor laws against forced and bonded labor. The Ministry of Labor, Youth Development, and Sport; the Ministry of Community Development, Women's Affairs, and Children; and the police share responsibility for combating trafficking.

The government's antitrafficking law enforcement efforts progressed during the year. According to the Ministry of Home Affairs, two cases of trafficking were reported during the year. Of the six trafficking cases reported between 2001 and March, four cases were pending in courts at year's end. The remaining two cases were under investigation.

There was no evidence of institutional involvement in trafficking by government agencies; however, there were reports that government officials or their relatives engaged in trafficking. There were also isolated reports that some police officials accepted bribes to ignore commercial sexual exploitation. During the year the government took no action against government officials engaged in trafficking.

Most victims were trafficked internally; boys were trafficked for exploitative work on farms, in mines, and in the large informal sector, while girls from rural areas were trafficked to the towns for involuntary domestic labor. Many of these domestic workers have fled abusive employers and turned to prostitution for survival. Most victims came from the regions of Iringa, Mwanza, Dodoma, Kigoma, Dar es Salaam, and Arusha. Girls were reportedly trafficked to South Africa, Saudi Arabia, the United Kingdom, and possibly other European countries for forced domestic labor. Indian women—who entered the country legally to work as musicians, singers, and dancers in restaurants and nightclubs—were at times exploited as prostitutes after arrival. On Zanzibar some hotels sponsored girls—for hotel work—who then become prostitutes; hotels were used by traffickers for prostitution activities.

Children in low-income families were at significant risk of being trafficked, and girls were more vulnerable than boys since girls were considered more of an economic burden on their families. Girls who completed primary school but did not enter secondary school were at particularly high risk. The country was also experiencing a boom in the number of child-headed households as more adults succumbed to HIV/AIDS-related disease and death, leaving their dependents at very high risk for child labor and trafficking.

Trafficking methods varied. Some trafficking victims left their homes with assistance from their family; some left on their own to escape life in rural areas; and some were transported by someone who had offered to help them find city work, legitimate or otherwise. There were reports that men recruited village girls who had completed primary school but were not entering secondary school. The men offered the girls money and employment and promised the girls a better life if they accompanied them to urban areas; however, these girls reportedly ended up in prostitution or domestic labor. Another method of trafficking involved low-income parents entrusting a child to a wealthier relative or respected member of the community, who was charged with caring for the child as one of his or her own. Some persons took advantage of this traditional practice and placed the child in a situation where he or she was at risk of being exploited or abused. Sometimes placement and transport to households was organized by small-scale freelance agents who recruited children from rural villages.

During the year the government took steps to protect trafficking victims, within the limits of its resources. Local police and officials from the Social Welfare Depart-

ment identified and informally referred child trafficking victims to NGOs that worked with street children and child prostitutes, provided small donations of food and other goods to these NGOs, and identified land available for building new shelters. The government cooperated with the International Organization for Migration's plans for a rehabilitation center between Dar es Salaam and Bagamoyo, which opened in November. There were no government or NGO media campaigns to inform the public about the dangers of trafficking specifically, but it continued its nationwide awareness campaign on the worst forms of child labor.

Local government officials participated in district committees that identified children vulnerable to or involved in the worst forms of child labor, including prostitution and forced domestic labor. From January 2002 through June, more than 26 thousand children were prevented or withdrawn from the worst forms of child labor in mining, domestic labor, commercial agriculture, and commercial sex. These children were referred for protection services offered by the International Labor Organization (ILO), including rehabilitation, education, and alternative training. During the year 60 out of 90 labor officers nationwide received intensive 3-month training on the new labor laws and application of child labor provisions, as well as on recognizing the worst forms of child labor such as prostitution and forced labor. The Ministry of Home Affairs coordinated an inter-ministerial committee on trafficking, but it met only once during the year.

Persons with Disabilities.—Although there was no official discrimination against persons with disabilities, but in practice persons with physical disabilities effectively were restricted in employment, education, access to health care and other state services due to physical barriers and a very limited budget. The government did not mandate access to public buildings, transportation, or government services for persons with disabilities, and the government provided only limited funding for special facilities and programs. The Ministry of Education, the Ministry of Justice, and the Ministry of Labor were responsible for enforcing the protection of rights of persons with disabilities for education, legal claims, and labor rights, respectively. The Department of Social Welfare has responsibility for coordinating disabilities matters. A few local NGOs also tried to highlight the plight of persons with disabilities in society.

According to the NGO Disabled Aids and General Engineering (DAGE), most private commuter buses would not stop for physically disabled persons. DAGE called on the government to look into ways of helping the disabled community move about safely and conveniently in urban centers.

In March the Ministry of Education inaugurated a special fund to increase access to education, particularly access by persons with disabilities and other disadvantaged members of the community.

There were reports of students with disabilities dropping out of school because of a lack of facilities. For example the families of blind students were not able to provide them with expensive brail paper and tape recorders.

On September 8, the Ministry of Education barred a local NGO, Haki Elimu, from undertaking or publishing any studies regarding government schools; in one of several TV advertisements critical of the government, the NGO highlighted the fact that government schools had no proper facilities for visually impaired students and students without limbs (see section 4).

During the year the ruling party CCM amended its election manifesto to allocate one of its special women's seat in parliament for persons with disabilities. CCM had so allocated one of its special women's seats previously, so this resulted in the allocation of two seats to women with disabilities. CCM decided that one such seat should be filled from Zanzibar and one from the mainland.

The law provides that a voter with a disability such as blindness may ask a person of his own choice—other than the poll workers—to assist in casting his vote.

Rape and sexual abuse of girls and women with disabilities reportedly was prevalent. In addition women who were visually impaired and living in remote rural communities cited lack of easy access to vaccines as a contributing factor to their disabilities.

Cultural practices and beliefs in some areas contributed to feelings of discrimination among persons with disabilities.

National/Racial/Ethnic Minorities.—There were no laws or official policies that discriminated against Asians; however, many African citizens viewed the approximately 1.5 million Asians in the country unfavorably. High-ranking government officials in the ruling party publicly emphasized on many occasions that it would not tolerate racist sentiments or bias of any kind. However, as the government continued to place more emphasis on market-oriented policies and privatization, public concern regarding the Asian minority's economic role increased. In October, prior to

the national elections, three opposition parties emphasized that, if elected, they would “take back” control of the national wealth and resources from foreign investors and the Asian population, and would redistribute it to persons of African and Arab descent who the parties considered to be true Tanzanians.

During the year there were reports of sporadic violent clashes between two pastoralist tribes and agriculturalists, but none resulted in death. In May local government officials criticized the district government in Tarime, in the Mara region, for not taking serious steps to mediate a 13-year-old land dispute between different clans of the Wakurya tribe; sporadic fighting among the groups had resulted in disability and loss of life over the years. In a June 9 report, the commissioner of the Kondo district of Dodoma region gave members of the Masai and Barbaig tribes an ultimatum to settle their differences over cattle rustling. The commissioner also banned meetings of both tribes, saying that their youth had displayed dangerous weapons that were a threat to the stability of the area.

Indigenous People.—Pastoralist tribes experienced discrimination in schools for wearing traditional dress or ornaments. Government policy requires all children attending schools to wear uniforms.

The Barabaig and other nomadic persons in the north continued to seek compensation for past government discrimination, which included government efforts to make them adopt a more modern lifestyle and efforts to restrict their access to pastoral lands that were turned into large government wheat farms.

Other Societal Abuses and Discrimination.—In Zanzibar the law outlaws homosexuality and lesbianism. The law establishes a penalty of up to 25 years of imprisonment for men who engage in homosexual relationships, and 7 years for women in lesbian relationships. By year’s end there were no reports that anyone was punished under the law; however, homosexuals faced societal discrimination.

During the year the Tanzania Parliamentarians’ AIDS Coalition addressed discrimination against persons infected with HIV/AIDS. However, there were reports that discrimination in housing, healthcare, and education continued to occur against the estimated 3.5 million persons in the country living with HIV/AIDS. There were isolated reports that private employers fired or did not hire persons based on the perception that they had HIV/AIDS. The government, working with NGOs, continued to sensitize the public about HIV/AIDS-related discrimination.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join unions without prior authorization; however, in practice many private sector employers adopted antiunion policies or tactics that limited this right. All workers, including those classified as essential service workers, were permitted to join unions. The Union and Zanzibar governments do not share the same labor laws, and they enforce them separately. The labor law of the mainland applies to both public and private sector workers. The mainland’s law requires a trade union for employees to consist of at least 20 members.

By year’s end the 2004 Labor Relations Act was partly operational with the Labor, Economic, and Social Council in place. Efforts to launch the Commission for Mediation and Arbitration and the labor court were nearly complete at year’s end. Implementing regulations and institutions were still in progress.

The labor law in Zanzibar applies only to private sector workers. Zanzibar workers were not allowed to join mainland-based labor unions. In addition the Zanzibar labor law requires that a union consist of 50 members to be registered, and it stipulates that trade union officers must possess a sufficiently high literacy level.

The sole labor federation, the Trade Union Congress of Tanzania (TUCTA), had 317 thousand members, which constituted less than 2 percent of the total workforce of 18 million. Approximately 27 percent of the workforce that is engaged in paid, “formal sector” employment was unionized. In the agricultural sector, which was the country’s single largest employer, an estimated 5 to 8 percent of the work force was unionized.

The 2004 Labor Relations Act provided for the reduction of the power of the Registrar of Trade Unions, Employers’ Associations and Federations. The act, which applies to the mainland but not to Zanzibar, requires a trade union or employers’ association to register within six months of its establishment. Failure to register is a criminal offense and is subject to sanctions imposed by the lower courts. The registrar may apply to the labor courts for what it deems to be an appropriate order or remedy of a civil infraction. Unlike the previous law, the 2004 Employment and Labor Relations Act does not permit the registrar to deregister the smaller of two trade unions when more than one existed in an industry; to suspend a trade union for contravening the law or the union’s own rules; or to invalidate a union’s international trade union affiliation if certain internal union procedures are not followed.

In any given mainland trade union, only one union leader may be legally occupied full time in carrying out his trade union functions. All others must work full time in the enterprise or industrial sector in which they have been elected.

On the Zanzibar isles, particularly on the island of Pemba, political opposition members claimed that the government discriminated against them in hiring. The government was the largest employer on the isles.

On the mainland the Security of Employment Act prohibits discriminatory activities by an employer against union members; however, during the year there were several reports of antiunion discrimination in the formal private sector. Employers found guilty of antiunion activities were required under the law to reinstate workers. The Warioba Commission found that bribes often determined whether a worker dismissed from his job was actually reinstated.

Most labor unions reported that private sector employers, particularly those attracted to the country by privatization and economic reforms, practiced antiunion discrimination. Some of these investors reportedly threatened to terminate or lay off employees who want to join trade unions. Some employers also did not allow unions to call for and hold recruitment meetings at their work places.

The labor law in Zanzibar does not protect trade union members from antiunion discrimination, and there were several reports of such discrimination during the year.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct activities without interference, and the government generally protected this right in practice. The law provides for collective bargaining, and workers and employers practiced it freely during the year; however, the law does not apply to the public sector. The government set wages administratively for employees of the government and state-owned organizations, the employees of which constituted less than 5 percent of the work force.

On Zanzibar the law prohibits all workers from striking. On the mainland workers had the legal right to strike after complying with certain legal requirements. During the year the enactment of the 2004 Employment and Labor Relations Act provided for the general right to strike and the reduction of the complicated and protracted mediation and conciliation procedures that a union is required to complete before it is allowed to legally strike.

If a strike is not in compliance with the act, a labor court can intervene to issue an injunction or order the payment of a fine. However, the act eliminated the significant penalties prescribed under the previous law for participating in an illegal strike.

On the mainland the Industrial Court Act remained in effect pending the implementation of the 2004 Employment and Labor Relations Act. Therefore, during the year a union that is not satisfied with the decision of the Industrial Court could conduct a legal strike if, in a vote taken in the presence of a government labor officer, a minimum of two-thirds of its members voted in favor of striking. Some labor rights observers said this requirement served as an intimidating factor to union members in the public sector. The mediation and conciliation procedures can prolong a dispute for months without resolving it. However, this provision will cease to be in effect upon the implementation of the new labor law.

On the mainland there were no laws prohibiting retribution against legal strikers.

With the new labor laws in place, any disputes arising under collective bargaining shall be referred to the Commission for Mediation and Arbitration and, if the mediation fails, then to the labor court for a decision.

Some labor rights observers, such as the LHRC, raised concerns that language in the new labor law may make striking more difficult in practice for workers in some sectors. The act restricts the right to strike when to do so would endanger the life and health of the population and thereby increases by about 50 percent the number of workers that are considered “essential,” and, therefore, not allowed to strike. Workers in certain sectors (water and sanitation, electricity, health services and associated laboratory services, firefighting, air traffic control, and civil aviation telecommunications) are restricted from striking and workers in other sectors may be deemed to be subject to this limitation either temporarily or permanently after a process involving investigation, notice, presentation, public hearing and publication. Under the new law the category of essential workers was expanded to include certain transportation workers required for provision of services the deprivation of which would endanger the life and health of the population.

There are two export processing zones (EPZ) on Zanzibar and three on the mainland. Labor law protections applied to EPZ workers. EPZ working conditions on the mainland were comparable to those in other areas; however, on Zanzibar there were unconfirmed reports of labor abuses.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, and labor laws passed during the year specifically prohibit forced labor by children and closed loopholes in the constitutional ban on such labor. However, there continued to be reports that forced and compulsory labor by children occurred (see sections 5 and 6.d.).

Although enforcement remained weak, the government implemented some measures, including increasing the number of labor inspectors.

In rural areas villagers normally participate voluntarily without pay in the village community activities like gardening and repairing small roads along their properties.

According to a 2004 survey of the mining company GGM, 85 percent of workers interviewed reported they were forced to work overtime under perceived threat of termination.

The Prisons Act allows for prisoners to work without pay on projects within the prison, such as on agriculture so that the prison could be self-sufficient. Prisoners were used to do forced labor on projects outside of the prison, such as road repair and government construction projects.

d. Prohibition of Child Labor and Minimum Age for Employment.—In 2004 the mainland government passed the Employment and Labor relations Act and the 2004 Labor Institutions Act, both of which provide for the protection of children from exploitation in the workplace and prohibit forced or compulsory labor. Enforcement of child labor laws was weak; however, the government hired additional inspectors during the year to improve enforcement. Nevertheless, child labor remained a problem.

The law establishes 14 years as the minimum age for contractual employment, in which children can only be employed to do light work unlikely to be harmful to their health and development. The minimum employment age was inconsistent with the age for completing educational requirements (see section 5.). The law stipulates that children under 18 years shall not crew on a ship or be employed in a mine, factory or any other worksite, including nonformal settings and agriculture, where work conditions may be considered hazardous.

The new labor laws prohibit the employment of children under the age of 14 years on the mainland except for light work that is not likely to be harmful to the child's health and development and that does not prejudice the child's attendance at school. Unlike the previous law, the new labor laws establish a criminal punishment for employers of child labor as well as forced labor; violators can be fined for an amount not exceeding \$4,600 (5 million shillings), imprisonment for a term of one year, or both. The new laws also prohibit children under the age of 18 from being employed in a mine, factory, ship, or other worksite that the minister of labor deems to be hazardous (the worst forms of child labor).

The ILO and UNICEF reported that children who left home to work as domestic laborers in other towns or villages often were subjected to commercial sexual exploitation. According to the Conservation Hotel, Domestic, and Allied Workers Union (CHODAWU), and the ILO, the majority of domestic child laborers in the country were girls, mostly between the ages of 13 and 15. Most of them worked between 12 and 14 hours each day, 7 days a week, without rest or being compensated for the extra time worked; sometimes they worked under abusive and exploitative conditions. According to a 2003 survey by the TAMWA, almost 60 percent of a sample of house girls said they had been pressured into having sex or were forced to have sex with the males in the families they served.

The ILO estimated that three thousand to five thousand children engaged in seasonal employment on commercial farms, sometimes under hazardous conditions. In mining regions between 1,500 and 3 thousand children worked in unregulated gemstone mines as "snake boys," working with explosives and crawling through narrow tunnels to help position mining equipment. Children were found working in various jobs, including as fishermen, barmaids, street vendors, car washers, and garbage scavengers. They also worked in semi-skilled crafts such as carpentry and auto repair. Girls as young as seven years old, and increasingly boys, were involved in prostitution within the country and were sometimes trafficked (see section 5).

Child labor in Zanzibar was widespread, and children were used in fishing, clove picking, domestic labor, petty business such as selling cakes, and commercial sexual exploitation near tourist attractions.

The Ministry of Labor remained responsible for enforcement of labor laws along with two new institutions established under the Labor Institutions Act: the Commission for Mediation and Arbitration and the Labor Court. During the year an additional 40 officers and inspectors were recruited and trained, increasing the national labor inspection force to 145. The government provided orientation to its officers to increase their capacity to monitor violations under the new labor laws; how-

ever, meager salaries continued to be a challenge. Further training and orientation were provided to the members of the police force investigating cases and to the magistrates presiding over trials.

District or community level child labor coordinating committees and subcommittees identified and monitored cases of child labor, but they did so with varying degrees of effectiveness. Representatives of the ILO, UNICEF, and local NGOs stated these problems were due to a lack of resources and not a lack of political will to fight child labor.

Several government ministries, including the Ministry of Labor, Youth Development, and Sports, have special child labor units. The government continued to implement, in collaboration with the ILO, a "Timebound Program to Eliminate the Worst Forms of Child Labor." The program sought to eliminate child labor in commercial agriculture, mining, domestic work, and prostitution in 11 districts by 2010. With the support of the ILO, the government under the Timebound Program tracked the number of children prevented from entering, and the number withdrawn from the worst forms of child labor in eleven districts. From January 2002 through June, over 20 thousand children were prevented or withdrawn from the worst forms of child labor in mining (2,081 prevented/1,466 withdrawn) domestic labor (3,292/2,701), commercial agriculture (2,813/1,408) and commercial sex (2,992/4,045). The numbers for the mining and commercial sex sectors exceeded the targets established for those arenas.

Under the Timebound Program, several local NGOs continued to identify and withdraw children from exploitative child labor. The Kiota Women's Health and Development Organization worked to rehabilitate exploited girls who work as prostitutes or domestic servants. Another organization, CHODAWU, established village-level inspections to identify cases of exploitative labor. CHODAWU also coordinates with grassroots child labor committees to withdraw children from exploitative situations.

e. Acceptable Conditions of Work.—The legal minimum wage for employment in the formal sector was \$53 (48 thousand shillings) per month. Even when supplemented with various benefits such as housing, transport allowances, and food subsidies, the minimum rate did not always provide a decent standard of living for a worker and family, and workers depended on their extended family or on a second or third job. Despite the minimum wage, most workers, particularly in the growing informal sector, were paid much less. For example domestic workers reportedly earned approximately \$6.50 (7 thousand shillings) per month.

There were many reports that employers regularly fired employees shortly after hiring them to avoid having to adhere to a law requiring them to provide certain benefits and salary minimums to employees employed for more than three months.

There was no standard legal workweek for private sector workers; however, a 5-day, 40-hour workweek was in effect for government workers. Most private employers retained a 6-day, 44- to 48-hour workweek. In general women could not be employed between 10 p.m. and 6 a.m., although this restriction was usually ignored.

Several laws regulate safety in the workplace. The Ministry of Labor, Youth, and Sports Development managed an inspection system; however, its effectiveness was limited. Labor standards were not enforced in the informal sector, and a large percentage of the workforce was employed in the informal sector.

Workers could sue an employer if their working conditions did not comply with the Ministry of Labor's health and environmental standards. Through the union, a worker may file a labor complaint before a labor officer, who convenes a hearing where the employer and employee state their cases. The employee or employer may appeal that decision to the minister of labor. Some labor officers accepted bribes from employers not to accept or certify these complaints. There were no reports that workers who lodged and won such complaints faced retribution; however, workers did not have the right to remove themselves from dangerous situations without jeopardizing their employment if they lodged a complaint and lost.

TOGO

Togo is a republic governed by newly elected President Faure Gnassingbe, son of former Gnassingbe Eyadema, who died on February 5, after 38 years in power. Eyadema and his party Rally of the Togolese Persons (RPT), strongly backed by the armed forces, dominated politics and maintained firm control over all levels of the country's highly centralized government until his death. Following some constitutional changes in the National Assembly and quick action by the military, Faure Gnassingbe was installed as the new president. Faure eventually bowed to sus-

tained international pressure and stepped down to allow presidential elections. On April 24, Faure was declared president in an election marred by severe irregularities. The civilian authorities generally did not maintain effective control of the security forces.

Before Eyadema's death, the government made some progress in improving its human rights record; however, following Eyadema's death, the government's human rights record deteriorated significantly. The unjust election and its violent aftermath had a significant negative impact on the human rights situation. Nevertheless, the new government under President Faure has shown a willingness to improve the country's human rights record through the adoption of a long-pending antitrafficking law and official recognition of the country's oldest human rights organization. The following human rights problems were reported:

- inability of citizens to change their government
- politically motivated killings, disappearances, rape, and other abuses by security forces
- violent acts committed by both pro-regime and opposition militants during the election period
- government impunity
- harsh prison conditions
- an increase in arbitrary arrest, particularly around election time and secret arrests
- prolonged pretrial detention
- executive control of the judiciary
- frequent infringement of citizens' privacy rights
- severe restrictions on the press, including closing media outlets
- restrictions on freedom of assembly and violent dispersals of demonstrations
- restrictions on freedom of movement
- harassment of human rights workers
- female genital mutilation (FGM), and violence against women
- discrimination against women and ethnic minorities
- trafficking in persons, especially children
- child labor
- lack of worker's rights in export procession zones (EPZs)

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were reports during the year that the government and its agents committed politically motivated killings. There were frequent reports that security officers committed arbitrary or unlawful killings during the year, particularly during the presidential election.

On April 26, just after the announcement that Faure won the election, several cities erupted in violence. The government deployed security forces to quell demonstrations. Security forces fired tear gas indiscriminately into crowds. After dispersing large crowds, they began a house-by-house campaign of violence against supposed opposition supporters in reprisal for protesting alleged electoral fraud. Security forces targeted neighborhoods thought to be opposition strongholds, killing persons in their houses and shooting at those who tried to flee. These attacks resulted in many deaths throughout the country in the opposition strongholds of Aneho, Atakpame, Sotouboua, Sokode, and especially the capital Lome. Amnesty International (AI) reported that a young man from Lome witnessed his mother's death on April 26 as she fled soldiers entering their house. AI also provided an account of a woman who watched soldiers beat her husband to death with cudgels on April 27 in Lome.

In September the UN Office of the High Commissioner on Human Rights (UNHCHR) released a report concerning human rights violations committed in the country after Eyadema's death and the end of the election period. The report described the killings of two young men in the main city of the Central Region, Sokode, one shot by the Presidential Election Security Force (FOSEP) and the other beaten to death by the gendarmes, also on April 26. The same day, in an effort to subdue a demonstration, security forces fired into a crowd and killed Late Lawson, a nephew of the king of Aneho. After protesters retaliated by laying siege to the police station, a helicopter appeared carrying reinforcements, which shot at the pro-

testers. At least, 20 persons died from election-related violence in Aneho on April 26 and 27.

There were reports of nightly raids by government security forces after the elections. While no exact figure of deaths can be attributed to these nighttime security forces attacks, it was believed that they caused a substantial portion of election-related deaths. A UN Development Program (UNDP) Humanitarian Assessment published in May reported that about 100 persons died following the April 24 presidential elections. The coalition of opposition parties reported that between February and May, more than 500 persons died for political reasons. The September UNHCHR report attributed 400 to 500 deaths to post-election violence.

High-ranking officials of the security forces admitted that they lost control of some of the troops dispatched to handle demonstrations. They also acknowledged that some men had abused their power, but refused to disclose their identities or state whether they had been disciplined.

The UN report indicated that summary executions had occurred in the country but offered no other details. The UN delegation also heard accounts of army commandos tasked with clearing demonstration sites of debris and corpses to impede efforts to help victims and assess damage. Reports of the creation of mass graves also circulated. The opposition coalition reported that military personnel transported more than 100 unidentified dead bodies to unknown destinations.

Following the death of President Eyadema, security forces clashed with and killed demonstrators (see section 2.b).

There were numerous reports of killings perpetrated by militias, both those affiliated with the ruling party and those aligned with the opposition. AI and the opposition coalition reported that the RPT militia aided security forces throughout the election turmoil. Several witnesses saw them shooting at demonstrators, raiding houses, and killing persons, and assaulting persons with cudgels, knives, and cutlasses. The RPT caught a young man singing the opposition rally cry and beat him at the RPT headquarters until he died. They left his body in a ditch behind the building.

Just after the announcement of the election results, on April 26, militant opposition members took to the streets throughout the country, erecting barricades, burning tires and attacking RPT sympathizers. Militants, unhappy with the results and armed with machetes, killed 12 persons. The militants targeted foreigners, setting fire to eight Malians, who were suspected of practicing voodoo, the same day mobs killed four persons from Niger. At year's end, the gendarmerie had not released the results of its investigation into these incidents.

On April 26 and 27, the marshal of the Kpele-Adeta prefecture and the sub-brigadier of the attorney general's office died as a result of being attacked by unknown assailants.

On May 25, the government created a Special Independent Investigation Commission to probe the violence and vandalism that occurred before, during, and after election-day. On November 10, the commission released its report. The commission held security forces, the ruling party, and opposition party members responsible for the violence related to the elections. The report also criticized the election commission for running a shoddy election. The private media also shared the blame for inciting violence and fomenting fear, according to the report. The commission recommended that individuals involved in the violence be prosecuted.

There were no developments in the case of Kouma Tengue, who died while in police custody. In September, the Togolese League of Human Rights (LTDH) reported that Kouma Tengue's body, which bore signs of being beaten, was still at the Lome morgue, awaiting an official autopsy.

The government took no action against the security force members who killed three civilians in two separate clashes related to the 2003 presidential election.

b. Disappearance.—There were reports of politically motivated disappearances. Many persons reported that security forces forcibly took away family members involved with the opposition. The LTDH also reported that Police Commissioner Emile Kodjovi Dadjé was detained in an unknown location. The reason for his detention was unknown.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law prohibits torture and physical abuse of prisoners and detainees, there were reports such practices occurred. The intense circumstances of the election period resulted in an increased incidence of arrest, which in turn produced many more reports of torture than in the previous year. Some former prisoners credibly claimed that security forces beat them during detention. There were reports that soldiers flogged the genitals of male prisoners. Impunity remained a problem, and the government did not publicly prosecute any officials for these abuses.

Security forces arrested and detained opposition members during the year (see section 1.d.).

Following the election, military personnel systematically raped women, often in view of the woman's children and husband. Opposition supporters were most frequently targeted, and approximately two thousand citizens fled the country after the elections (see section 3).

Prison and Detention Center Conditions.—Prison conditions remained very harsh, with serious overcrowding, poor sanitation, and unhealthy food. At year's end Lome's central prison, meant to hold 500 prisoners, held 1,193 inmates, including 40 women prisoners. Almost 90 percent of the inmates were pretrial detainees. Medical facilities were inadequate, and disease and drug abuse were widespread. Sick prisoners reportedly had to pay approximately \$2.75 (1,500 CFA francs) to guards before being allowed to visit the infirmary. There were reports that prison security officials sometimes withheld medical treatment from prisoners. Lawyers and journalists reported that prison guards charged prisoners a small fee to shower, use the toilet, or have a place to sleep.

The children of convicted women were often incarcerated with their mothers, who were held separately from the male prisoners. Unlike in previous years, juvenile detainees were not held separately from adults. Pretrial detainees were not held separately from convicted prisoners.

On July 8, Lieutenant Denan, 1 of 14 officers arrested in 2003 along with putative coup plotter Lieutenant Colonel Kouma Bitenewe, died in prison after inexplicably falling into a coma. Denan and the others had been detained in Lome until they were accused of having led a mutiny in Lome's prison in February and were then transferred to Kara. Since being incarcerated, 3 of the original 14 have died.

Local NGOs were allowed access to all prisons in the country. In June, the delegation of the UNHCHR investigating election violence visited prisons to research allegations of violence and human rights violations that occurred between February 5 and May 5. The delegation was allowed to meet with certain prisoners in private to conduct interviews. Diplomatic representatives were given access to their detained citizens.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, the government generally disregarded these prohibitions.

Role of the Police and Security Apparatus.—The security forces are consist of the army, navy, air force, the national security service (including the national police and investigation bureau), and the gendarmerie. The police are under the direction of the Ministry of Security, while the Ministry of Defense oversees the gendarmes and military. Legally, the police and gendarmes are responsible for law enforcement and maintenance of order within the country. However, the army, charged with external security by law, was truly in command of domestic security. Approximately 75 percent of the army's officers and soldiers are from the late President Eyadema's Kabye ethnic group.

The government established a special authority—FOSEP—composed primarily of police officers, to ensure security during the vote.

Police were generally ineffective and corrupt, and impunity was a problem. The government in general did not investigate or punish effectively those who committed abuses, nor did it prosecute persons responsible in previous years for unlawful killings and disappearances. During the year, the government recruited 615 new police personnel, who had started duty at year's end. The police failed to prevent societal violence after the April election, although it was their responsibility to ensure internal security.

Arrest and Detention.—The law authorizes judges, senior police officials, prefects, and mayors to issue arrest warrants; however, especially after the election, persons were detained arbitrarily and secretly. Although detainees have the right to be informed of the charges against them, police sometimes ignored this right. The law allows authorities to hold arrested persons incommunicado without charge for 48 hours, with an additional 48-hour extension in cases deemed serious or complex. Family members and attorneys officially had access to a detainee after 48 or 96 hours of detention, but authorities often delayed, and sometimes denied access. Minors detained since the election have not had access to a lawyer. The law stipulates that a special judge conduct a pretrial investigation to examine the adequacy of evidence and decide on bail; however, in practice detainees often were held without bail for lengthy periods with or without the approval of a judge.

The government at times resorted to false charges of common crimes to arrest, detain, and intimidate opponents. For example on April 27, soldiers forcibly entered the home of the Guin traditional leader of Aneho, King Togbe Ahuawoto Savado Zankli Lawson VIII, taking him and his nephew into custody. The soldiers detained

the two men at the gendarmerie. The king overheard the soldiers referring to a police officer who had disappeared the day before. The king told them that the officer in question had sought refuge at his palace the night before, unable to return home due to barricades on the roads. The gendarmes released the king and his nephew several hours later at the order of the chief of the general staff of the armed forces. Later, the king learned that he had been charged with sequestering the police officer, possession of firearms, and inciting trouble. At year's end the charges against the king were still pending.

In June the UN delegation visited Lome Prison and interviewed a woman detained without charge since 1998 for her political convictions.

After forcibly dispersing demonstrations during the year, members of the security forces arrested and detained participants, sometimes without bringing formal charges (see section 2.b.).

The government denied the existence of political detainees; however, several persons arrested after the election and affiliated with the opposition, were being held in a prison near Kara, an area of strong RPT support. AI reported that dozens of persons were in detention following the elections. After the announcement of election results, security forces sometimes moved political detainees to informal detention centers under the control of the military or RPT militia. Because the government did not acknowledge any political detainees, it did not permit any organizations access to them. On July 12, the government released the remaining military officers accused, but never convicted, of plotting a coup in 2003 (see section 1.c.).

In July two opposition members and four former military officers were arrested for suspicion of plotting a coup, according to credible reports. The group, including Kossi Tudzi of the Union of Forces for Change (UFC) and Hermes Woamede Da Silveira of the Alliance of Patriots for Unity and Action, was accused of recruiting and training mercenaries and acquisitioning illegal weapons in order to attack the government. At year's end, they remain incarcerated in Lome Prison without a trial scheduled. No further information was available.

Three members of the UFC were arrested in September for allegedly bombing a post office in Lome. Gendarmes took Anate Andre Abbey, Kossi Jomo Azonledzi, and Koffi Adodo Akoumey into custody and held them at the Lome Prison, where they reportedly remained at year's end. No further information is available.

In June the government released former prefect Hemou Kpatcha who was incarcerated in October 2004 for providing Togolese identification documents to former prime minister and regime critic Agbeyome Kodjo in the 1980s.

A shortage of judges and other qualified personnel, as well as official inaction, resulted in lengthy pretrial detention—in some cases several years—and confinement of prisoners for periods exceeding the time they would have served if tried and convicted. Official figures from the government indicate that pretrial detainees constituted 90 percent of the prison population. (see section 1.c.).

On July 9, the government released more than 200 persons in Lome, Aneho, Tabligbo and Vogan. Most of the incarcerated had been arrested following the election and were still pending trial at the time of their release. On July 18 and 20, the government released 80 more pretrial detainees who had been taken into custody following the election. According to the government, 77 persons involved in election violence were still imprisoned and awaiting trial at year's end (see section 1.e.).

Amnesty.—On November 2, the Minister of Justice released 460 prisoners from Lome Prison. The minister was prompted to discharge these prisoners to relieve the overcrowding at Lome Prison and released those who had either already served half of their original sentences or committed merely minor infractions.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, the executive branch continued to exert control over the judiciary.

There were three associations of magistrates in the country: the Union of Magistrates of Togo (SMT), the National Association of Magistrates (ANM), and the Professional Association of Magistrates of Togo (APMT). A majority of the APMT members were supporters of the late President Eyadema. Judges who belonged to the pro-Eyadema APMT reportedly received the most prestigious assignments, while judges who advocated an independent judiciary and belonged to the ANM and SMT often were assigned to second-tier positions. For example, in Lome, the presidents of the Constitutional Court, Supreme Court, Court of Appeals, and Court of First Instance were members of the APMT as were the public prosecutor and the attorney general. In Kara, the president of the Court of Appeals and the president of the Court of First Instance were members of the APMT.

In August a change occurred in the membership of the Supreme Council of Magistrates, the body that nominates judges to their positions, in order to be more rep-

representative of all of the magistrates associations. Previously, APMT judges dominated the council. This move was meant to equalize the assignments among the different associations; however, at year's end, all judgeships remained unchanged, so that APMT affiliates still occupy prime positions.

The Constitutional Court stands at the apex of the court system. The civil judiciary system includes the Supreme Court, appeals courts, and court of first instance. A military tribunal exists for crimes committed by security forces; its proceedings are closed. The court system remained overburdened and understaffed.

Trial Procedures.—The judicial system employs both traditional law and the Napoleonic Code in trying criminal and civil cases. Trials are open to the public, juries were used, and judicial procedures generally were respected. Defendants have the right to counsel and to appeal. The Bar Association provides attorneys for the indigent. Defendants may confront witnesses and present evidence on their own behalf.

In rural areas, the village chief or council of elders is authorized to try minor criminal and civil cases. Those who reject the traditional authority can take their cases to the regular court system, which is the starting point for cases in urban areas.

Political Prisoners.—During the year, the government continued to report that there were no political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such practices, but security forces often infringed on these rights. In criminal cases, a judge or senior police official may authorize searches of private residences, and in political and national security cases the security forces need no prior authorization. Security forces entered houses by force and without warrants, beating persons. In reaction to a demonstration in March, security forces pursued opposition supporters and threw tear gas canisters inside houses in the Be district. From April until August, security forces throughout the country entered houses by force, searching for opposition sympathizers (see section 1.a.). Togolese refugees in Ghana and Benin and numerous persons interviewed in Lome and the opposition stronghold of Aneho described nightly raids by government security forces after the April elections. These extrajudicial incursions into private homes remained a common occurrence until August and generally targeted suspected opposition sympathizers.

On April 24, a group of armed and masked members of the security forces broke through the doors of the Multi Media Line computer center while an opposition group was tallying election results. The intruders took the center's computer equipment and personal effects belonging to the group.

On April 27, security forces scaled the walls of and rammed open the doors to the palace of the king of Aneho, Togbe Ahuawoto Savado Zankli Lawson VIII (see section 1.d.).

In 2003 gendarmes confiscated documents during a search of a private residence. The items included identity documents of Dahuku Pere, a former RPT member turned voice of opposition, and his family. In June 2004 Pere addressed a letter to the government requesting the return of the documents. The government returned the documents in March.

Citizens believed that the government monitored telephones and correspondence, although such surveillance was not confirmed.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, while the government made some improvements in the media environment during the year, its respect for freedom of speech and the press worsened. The government harassed and intimidated journalists. Unlike in the previous year, independent newspapers were permitted to circulate in Kara. The government frequently interfered with radio stations during the year, particularly after Eyadema's death. Journalists and radio and television broadcasters practiced self-censorship.

Though the government did not censor individual expression, most persons practiced self-censorship because of past violent reprisals at the hands of government agents.

There was a lively independent press, most of which was heavily politicized, and some of which was highly critical of the government. More than 15 privately owned newspapers were published with some regularity. The only daily newspaper, *Togo-Presse*, was government owned and controlled. There were several independent newspapers that published on weekly and bi-weekly schedules. The official media heavily slanted their content in favor of the government.

Radio remained the most important medium of mass communication. Some private radio stations broadcast domestic news; however, they offered little of the polit-

ical commentary and criticism of the government that was widespread in the print media.

The government-owned *Togo Television* was the only major television station in the country. Four smaller television stations operated during the year but their broadcasts were limited to certain geographic areas. TV-2, RTDS, and TV7 carried France-based TV-5's international news programming, and TV-Zion's content was of a primarily religious nature. TV7 also carried weekly political debates through the program *Seven on Seven*, a weekly political forum where governing and opposition party leaders, human rights organizations, and other observers participated in discussions on political issues and expressed criticism or support for the government.

The law established the High Authority of Audiovisual and Communications (HAAC) to provide for the freedom of the press, ensure ethical standards, and allocate frequencies to private television and radio stations. Although nominally independent, in practice the HAAC operated as an arm of the government.

In September the Council of Ministers appointed nine professionals of the media sector to the HAAC. The pro-regime national legislature elected five members and the president nominated the other four. Only one appointee comes from the independent media while the others are affiliated with government-owned media outlets.

After some positive steps during the previous year, the government intensified its harassment of the private media after the death of President Eyadema. In February the government released reports in *Togo-Presse* accusing international and local media of broadcasting rumor and misinformation detrimental to the peace.

Following Eyadema's death in February, the president of HAAC repeatedly threatened to stop or did stop radio programs discussing the political events in the country and opposition viewpoints. Stations affected included Nana FM and Kanal FM.

Beginning on February 6, the Voice of America (VOA) affiliate in the northern city of Sokode, Radio Tchaoudjo, had its power cut just before each VOA news segment. Power was always restored 30 minutes after the scheduled start of the thrice-daily broadcasts. This disruption of power continued for several weeks.

On February 7, Minister of Communications Pitang Tchalla, summoned journalists of the international media to express alarm at their reporting and to request they cover the unfolding political situation with impartiality. He also accused Radio France International (RFI) of fomenting fear and social unrest through its reporting and ordered it to suspend broadcasting from the morning of February 8 through the morning of February 10. On February 8, immigration officials at the border with Benin denied an entry visa to an RFI special correspondent.

On February 7, the president of HAAC, ordered Radio Nostalgie to cease all transmissions concerning political events. The following day, two armed gendarmes forcibly entered the station and threatened broadcasters and guests who were on air discussing the political developments in the country. After spending two hours at the station, the gendarmes finally left after persuasion from media association leaders and police officers.

On February 10, in retaliation for airing a segment with opposition figures, the military commander of Aneho, the local prefect, and a military detachment seized Radio Lumiere's transmitter and all broadcasting equipment. Eventually, the radio station's director fled to self-exile, and Radio Lumiere remained closed at year's end.

On February 11, the government ordered the closure of Kanal FM, Nana FM, Radio Nostalgie, and television station TV7, citing the failure to pay overdue taxes as the reason for closure. All stations also suffered disruption in telephone service. A total of 11 radio stations were eventually shut down, for reasons as specious as engaging in "tribalism." By February 24, all radio stations were back on the air.

On February 12, security forces briefly detained a journalist and two accompanying photographers for taking pictures of violent demonstrations.

On April 15, nine days prior to the election, the HAAC, in contravention of the electoral code, banned independent newspapers and television and radio stations from covering the presidential campaign and from "broadcasting partisan, defamatory, and insulting news or inciting violence." The HAAC also ordered private media to refrain from organizing any programs featuring the candidates. The military, under orders from the minister of communications, closed media outlets that defied the directive. Kanal FM was suspended for one month because it aired an editorial considered critical of the government. Radio Maria, Radio Nostalgie, and TV7 were shut down for one month for broadcasting "false information that could frighten the population" after mistakenly reporting a curfew. Several radio stations in the country ceased transmission to avoid harassment by the military.

On April 27, during an interview with a surgeon at Aneho hospital, security forces arrested 12 journalists. They were subsequently released and ordered to leave Aneho.

On October 9, masked men with clubs severely beat Jean-Baptiste Dzilan, also known as Dimas Dzikodo, the country's most outspoken journalist and publisher of the independent newspaper *Forum de la Semaine*. Although the government stated it would investigate the incident, no official statement had been announced by year's end.

On November 9, RFI resumed broadcasting in Lome and Kara, on the same day 250 journalists from around the world visited the country to participate in a Francophone press conference. The radio station had been closed since April 26. There were reports that RFI agreed to a provision that required the station to refrain from transmitting inflammatory broadcasts.

In November the HAAC issued a decree banning all political programs on local and religious radio and television stations. Private stations are still permitted to air political programming, but because most radio stations in the interior of the country and several stations in Lome are classified as local stations, they have been affected. The HAAC approached only Radio Maria specifically to require cessation of political broadcasts.

There was no prepublication censorship of print media in law or practice; however, journalists practiced varying degrees of self-censorship.

Unlike in the previous year, there were no reports that the government blocked access to opposition Web sites. There were no reports that the government restricted access to the Internet.

The government did not restrict academic freedom, although security forces maintained a presence at the University of Lome. According to students and professors, a government informer system continued to exist and gendarmes went undercover on campus and attended classes.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, the government often restricted this right in practice. Government officials prohibited, and security forces forcibly dispersed, political gatherings.

A political party wishing to hold a demonstration or rally on public property is required to notify the minister of territorial administration and decentralization. If a political party intends to hold a rally on private property, notification is legally not required.

On February 7, the government banned all street demonstrations for two months in observance of a national mourning period for the late president Eyadema. Several impromptu marches occurred on this day in Lome and other major cities to voice quiet disapproval of the recent extra-constitutional maneuvers. In some cities, the security forces forcibly dispersed the protestors. On February 18, the government lifted the demonstration ban.

On February 9, military personnel beat students in Lome when they walked out of classes to show support for an opposition-led civil boycott.

On February 11, approximately 300 protesters gathered in Lome in response to an opposition call for a rally. Soldiers quickly surrounded the neighborhood and fired tear gas into the crowd.

On February 12, security forces dispersed an opposition demonstration in Lome, using batons and belts to beat protesters and firing bullets into the crowd, resulting in five civilian casualties.

On February 27, security forces forcefully dispersed a peaceful women's march, beating persons with batons and firing tear gas into crowds. Five persons were killed in the course of this demonstration. The bodies were found the following day; three were found in a lagoon and two in an opposition stronghold neighborhood in Lome. All of the bodies had contusions consistent with having suffered beatings from batons. The government promised to investigate the deaths, but at year's end there were no known investigations.

On April 26 and 27, demonstrations took place throughout the country following the announcement of the election results. Some began peacefully and ended with security forces tossing tear gas at the protestors and beating them. In some areas, demonstrators attacked regime supporters and security forces reacted with more violence. All major cities saw clashes that resulted in several deaths (see section 1.a.).

Unlike in the previous year, there were no student demonstrations during the year.

Freedom of Association.—Under the law, citizens have the right to organize associations and political parties; while there were improvements in this area, the government denied official recognition to some associations, including some human

rights groups. In October the government provided the country's first independent human rights group, LTDH, its certification documents after it denied the organization official accreditation for 15 years.

There were many non-governmental organizations (NGOs); they were required to register with the government. The government established requirements for recognition of associations and NGOs. The Ministry of Territorial Administration and Decentralization issues official recognition documents. Upon filing with the ministry, associations are given a receipt allowing them to begin operations. The Civil Security Division enforces the regulations and is the agency responsible for handling problems or complaints concerning an association or an organization. If an application provides insufficient information for recognition to be granted, the application remains open indefinitely. Members of groups that are not officially recognized could organize activities but do not have legal standing.

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

The government recognizes three main faiths as state religions: Roman Catholicism, Protestantism, and Islam. Other religions, such as animism, Mormonism, and Jehovah's Witness, were required to register as associations. Official recognition as an association affords the same rights as the official religions.

Societal Abuses and Discrimination.—The Jewish population of the country is negligible, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—Although the law provides for these rights, the government restricted them in practice. Armed security checkpoints and arbitrary searches of vehicles and individuals were common and increased following Eyadema's death and during the election period. Undisciplined acts of some soldiers manning roadblocks, such as frequent demands for bribes before allowing citizens to pass, impeded free movement within the country.

Twice during the year the government closed all land borders and air access to the country. First, on February 5, immediately after President Eyadema's death, the government restricted all entry to and departure from the country. As a result, the plane carrying the designated interim president, Speaker of the National Assembly Fambare Natchaba was forced to reroute to neighboring country Benin. Thereafter, the government prevented Natchaba from returning to the country until borders reopened on February 8.

The second border closure occurred on April 22, prior to the election. The government also banned all intercity travel. The government reopened the borders and lifted the travel ban on April 25.

In March the government returned all identity documents, confiscated in 2003, to former National Assembly president and regime critic Dahuku Pere. The government also issued a passport and identity card to his son for the first time. In September the government returned previously seized documents to former prime minister Agbeyome Kodjo and delivered new passports to his children.

Unlike in previous years, the government did not restrict opposition members from leaving or entering the country.

The law prohibits exile, and the government did not employ it. However, several opposition and human rights workers remained in self-imposed exile because they feared arrest. Former army chief of staff, Lieutenant Colonel Kouma Bitenewe, who fled to Benin in 2003 returned to the country in June.

After the elections approximately 40 thousand citizens, mostly affiliated with the opposition, fled to neighboring Ghana or Benin as a result of the abuses committed by security forces.

Internally Displaced Persons (IDPs).—Large numbers of persons fled their homes following Eyadema's death and the presidential election. The February 5 closure of borders and subsequent illegitimate transfer of power created panic in the country, prompting persons to leave their homes in the cities and seek refuge in smaller villages.

Violent demonstrations and the ensuing security forces reaction after the April 26 announcement of election results caused 10 thousand persons to leave their cities of residence. Since security forces targeted areas considered opposition strongholds, most IDPs fled those areas in Lome and Sokode. Ethnic Kabyes abandoned Atakpame for Kara, fearing reprisals from opposition supporters.

On June 8, the government created the High Commission for Repatriates and Humanitarian Action to assist and protect repatriates. There were no reports that the government targeted IDPs or forcibly returned them.

Protection of Refugees.—Although the law does not provide for the granting of refugee status and asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, in practice, the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum.

An estimated 40 thousand Togolese fled to Ghana and Benin as refugees following election-related violence. Despite urgings from the government, most did not return home by year's end because of fear for their security.

A voluntary repatriation program for 508 Ghanaian refugees was still not implemented because of continuing unrest and instability in Ghana along the Togo-Ghana border. These refugees have been integrated into society and no longer qualify for assistance. According to the government, there were approximately 800 refugees (mostly from Rwanda and the Democratic Republic of the Congo) registered in Lome and approximately 1,200 additional refugees living in rural villages.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and provided it to approximately 100 persons during the year.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees during the year.

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

The law provides for the right of citizens to change their government peacefully; however, the government restricted this right in practice. The government and the state remained highly centralized. The national government appoints officials and controls the budgets of all subnational government entities, including prefectures and municipalities, and influences the selection of traditional chiefs. The National Assembly exercised no real oversight of the executive branch of the government.

Elections and Political Participation.—On February 5, the government announced the death of president Eyadema. The constitution prohibits any revision of the document in the case of a presidential vacancy. Nevertheless, on February 6, the National Assembly held an extraordinary session to amend the constitution and Electoral Code, dismiss Speaker Fambare Ouattara Natchaba, and elect Eyadema's son Faure Gnassingbe as the new speaker, allowing him constitutionally to step into the presidency. In a ceremony in the middle of the night, the armed forces installed Faure Gnassingbe as the new president. On February 7, the Constitutional Court, vested with guaranteeing respect of the law, swore Faure in as president. On February 22, Faure resigned the presidency due to international and internal pressure. The National Assembly elected a new speaker, Abass Bonfoh, who then became interim president.

Although the law requires holding elections within 60 days of a vacancy in the presidency, the international community and local opposition contended that the election timeframe, culminating with elections on April 24, was not sufficient to ensure a free and fair election.

Numerous irregularities marked the election preparation period. Some registration centers required, in accordance with the law, only the national identity card while others demanded several other documents. Although names of citizens eligible to vote did not appear on voter lists, those of deceased persons did appear. While voter registration cards were readily available in the ruling party-dominated Kara region, the government severely limited access for opposition supporters. The interior ministry released figures before the election showing an 80 to 100 percent rate of registration in ruling party regions and between 20 to 30 percent in opposition strongholds.

On April 22, in an unannounced 2 a.m. press conference, the interior minister, who is responsible for conducting elections, appealed for the postponement of the elections, saying that conditions for a credible election had not been met and that the potential for a civil war was enormous. The interim president denounced the interior minister's statement and removed him from office. The elections were held as planned on April 24.

Accredited international election observers noted massive irregularities during the election itself. For example, observers noted the presence of armed soldiers at polling stations. Also, many polling stations opened late, did not have the voter lists, or did not have ballots. A number of polling places closed on time despite starting late and despite not accommodating all who wanted to vote. Representatives of the opposition, legally permitted to be present inside the voting station, were prevented from doing so. Observers witnessed several underage children voting. There were re-

ports that some ballot boxes arrived already filled with ballots. There were numerous reports of election officials adding ballots to the boxes during the course of election day. There were several claims that ruling party delegates had given voters money and pre-marked ballots to cast.

At the end of election day, FOSEP entered polling stations to take the ballot boxes. According to election observers and an AI report released in July, FOSEP fired shots into the polling stations and took the ballot boxes. Witnesses also reported the same scene being played out with the Presidential Guard Force taking the boxes.

Four persons were killed in Mango on election day when security forces opened fire on opposition supporters who tried to prevent security forces from removing ballot boxes from a polling site.

On April 26, the Electoral Commission announced Faure had received 60 percent of the vote and declared him president. An opposition candidate filed a complaint with the Constitutional Court based on flaws in the voting procedures. The court certified the results without an investigation.

There were no developments in the government's commitment to the European Union to organize fair and transparent legislative elections, to hold local elections within 12 months of April 2004, or to organize a national dialogue with the main opposition parties.

There were five female members in the 81-member National Assembly, and there were four female ministers in the president's 30-member Cabinet. Members of the southern ethnic groups were underrepresented in the government, especially the military, relative to their percentage of the general population.

Government Corruption and Transparency.—Official corruption was a problem and there was widespread public perception of corruption in both the executive and legislative branch. The Anti-Corruption Commission (CAC) was generally ineffective. While it continued to investigate current relatively low-level and former high-level officials, it did not use fair and transparent procedures to deal with allegations of corruption. In 2004 the CAC proposed prosecuting two former officials and high-ranking party members; however, no action had been taken by year's end.

The CAC allowed most senior government officials accused of corruption to continue in their positions and did not investigate allegations made against them. For example, the CAC levied allegations of corruption against the director general of the Social Security Agency, yet he remained in his position.

According to the government's official poverty reduction strategic paper, prepared in conjunction with the World Bank and UNDP, corruption and lack of transparency in the management of public funds was a problem throughout the government. The law provides for the creation of a court of accounts to oversee public expenditures; however, the government failed to initiate its creation.

There were reports of executive branch interference in the judiciary. A 2004 UNDP diagnosis of the country's justice system revealed that lawyers often bribed judges to influence the outcome of cases.

In August the government embarked on a judicial reform process. This five-year program aims to modernize the judiciary and insulate it from executive branch interference.

Although the press code provides for public access to government information, the government did not permit access to either citizens or noncitizens, including foreign media.

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

The government generally allowed domestic and international groups to operate without restriction, investigating, and publishing alleged violations of human rights; however, the government occasionally threatened or hindered the activities of human rights activists and was inconsistent in following up on investigations of abuses.

There were several domestic private human rights groups, including the LTDH, the Center for Observation and Promotion of the Rule of Law, and the Togolese Association for the Defense and Protection of Human Rights. Years of government threats and intimidation of human rights leaders, combined with a lack of results from human rights initiatives, have led some human rights groups to become inactive. A few groups such as the Togolese Movement for the Defense of Liberties and Human Rights, the African Committee for the Promotion and Support of Human Rights, and the African Center for the Rehabilitation of Victims of Torture and Repression served as apologists for the government by making public statements explaining the behavior of the government in favorable way.

The government sometimes withheld official accreditation from human rights groups. The lack of official recognition made it harder for some human rights groups to acquire technical and financial support from international organizations. LTDH, the first independent human rights group in the country, was only able to acquire official recognition in October.

The government met with some domestic NGOs that monitor human rights but took no action in response to their recommendations.

The government at times restricted the activities of domestic NGOs. For example the government did not allow any domestic groups to participate as observers during the elections. There also were reports that the government harassed, threatened, and targeted workers of independent human rights NGOs. On May 31, the LTDH reported that its board members and staff were in hiding because they received death threats through anonymous telephone calls and because individuals followed them and maintained surveillance of their houses. The government used the HAAC and the RPT youth organization to suppress criticism of its human rights policies.

The government generally did not impede the work of international NGOs during the year. However, prior to the election, the minister of interior refused to allow the National Democratic Institute (NDI) to train presidential candidate representatives who would be present at polling stations. He later allowed NDI to conduct the training session.

The government denied a regional group, the West African Civil Society Forum, the opportunity to observe the election even though the organization complied with all the requirements to participate. After the denial, security personnel followed the team wherever they went.

Envoys from Economic Community of West African States (ECOWAS) traveled to the country before the April 24 election to consult with the government regarding procedures to hold free elections. ECOWAS representatives also acted as election observers during the vote, and the government fully cooperated with them. On April 27, ECOWAS announced that the "irregularities and shortcomings," though regrettable, were not sufficient to "call into question the proper administration and credibility" of the election.

From June 13 through 24, a delegation from the UNHCHR visited the country to investigate allegations of violence and human rights violations that occurred in the country between February 5 and May 5. The government cooperated with the representatives during the visit.

On September 26, the UN mission released its findings, which revealed that approximately 500 persons died and that the government was responsible for significant human rights violations (see section 1.a). The government issued a response emphasizing the portion of the report that cast the government's responsibility for some violence on opposition leaders and supporters. There were reports that the government interfered with the drafting of the report and demanded certain segments be excluded.

On September 28, the president of the International Federation of Human Rights Organizations visited the country to investigate violations of human rights and the government also cooperated with him.

Supporters of the president continued to dominate the National Commission for Human Rights.

A permanent human rights committee exists within the National Assembly, but it did not play any significant role in policy-making and was not independent of the government.

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

The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, the government did not enforce these provisions effectively. Violence and discrimination against women, FGM, trafficking in persons, discrimination against ethnic minorities and individuals with HIV/AIDS were problems.

Women.—Domestic violence against women continued to be a problem. The law does not specifically prohibit domestic violence. Police generally did not intervene in abusive situations, and women were not made aware of the formal judicial mechanisms that would give them protection. According to an indigenous women's rights NGO, wife beating was estimated to affect approximately 6 percent of married women.

The law criminalizes rape and provides for prison terms of 5 to 10 years for anyone found guilty of rape. The law does not specifically penalize spousal rape. Although the government was diligent in investigating and prosecuting instances of rape, reports were rare because of the social stigma associated with being raped.

FGM continued to be practiced on approximately 12 percent of girls. The most commonly practiced form of FGM was excision, which usually was performed on girls a few months after birth. Most of the larger ethnic groups did not practice FGM. FGM is illegal and penalties for practitioners ranged from two months to five years in prison as well as substantial fines. The law was rarely applied because most FGM cases occurred in rural areas where neither the victims nor the police understood the law. Traditional customs often superseded the legal system among certain ethnic groups. The government continued to sponsor seminars to educate and campaign against FGM. Several NGOs, with international assistance, organized educational campaigns to inform women of their rights and how to care for victims of FGM.

The law prohibits prostitution, including running a brothel, and provides for fines of up to \$2 thousand (1.09 million CFA francs) for brothel owners and panderers. Prostitution in Lome was fairly widespread since economic opportunities for women were severely limited. Several prostitutes in Lome reported that they had to pay security forces to pass through certain parts of town; this payment most often took the form of sex. Members of the security force raped them prostitutes who protested the payment. The government has not acted to stop this practice.

A presidential decree prohibits sexual harassment and specifically targeted harassment of female students, although the authorities did not enforce the law.

Although the law declares women equal under the law, women continued to experience discrimination, especially in education, pension benefits, and inheritance as a consequence of traditional law. A husband legally could restrict his wife's freedom to work or control her earnings. In urban areas women and girls dominated market activities and commerce; however, harsh economic conditions in rural areas, where most of the population lived, left women with little time for activities other than domestic tasks and agricultural fieldwork. The Labor Code, which regulated labor practices, requires equal pay for equal work, regardless of gender, but this provision generally was observed only in the formal sector. Under traditional law, which applied to the vast majority of women, a wife has no maintenance or child support rights in the event of divorce or separation and no inheritance rights upon the death of her husband. Polygyny was practiced. Women can own property with no special restrictions.

The Ministry of Population, Social Affairs, and Promotion of Women, along with independent women's groups and related NGOs, continued to campaign actively during the year to inform women of their rights.

Children.—Although the law and family code laws provide for the protection of children's rights, in practice government programs often suffered from a lack of money, materials, and enforcement. There were many practices that discriminated against children, especially girls.

The government provided education in state schools, and school attendance is compulsory for both boys and girls until the age of 15. According to a September UN Children's Fund (UNICEF) report, approximately 79 percent of children aged 5 to 11, mostly boys, attended school. In that age group, approximately 83 percent of boys and 74 percent of girls started primary school, but only an estimated 51 percent of boys and 22 percent of girls reached secondary school. The General Directorate of Education Planning in the Ministry of Education estimated one-third of the national budget was spent on education.

Orphans and other needy children received some aid from extended families or private organizations but little from the government. There were social programs to provide free health care for poor children. In rural areas, traditionally the best food was reserved for adults, principally the father.

FGM was performed on approximately 12 percent of girls (see section 5, Women).

Statutory rape is illegal and punishable by up to 5 years of imprisonment and up to 10 years if violence was involved. If a victim is a child under 14; was gang-raped; or if the rape results in pregnancy, disease, or incapacitation lasting more than six weeks, the prison term is 20 years. Although the law explicitly prohibits sexual exploitation of children and child prostitution, the government did not effectively enforce the prohibitions. (see section 5, Trafficking).

There were reports of trafficking in children (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

Trafficking in Persons.—The law prohibits trafficking in children but not adults; however, there were reports that persons were trafficked to, from, or within the country. On August 2, the government passed the "Law for the Repression of Child Trafficking." The law provides for prison sentences and fines for anyone who recruits, transports, hosts, or receives trafficked children and prison sentences for parents who willingly facilitate the trafficking of their children. The law provides from

3 months to 10-year prison sentences and fines ranging from \$2 thousand to \$20 thousand (1 to 10 million CFA francs) for traffickers of children and/or their accomplices. Anybody who assists and/or provides information, arms, or transportation to facilitate the trafficking is considered an accomplice. Although approximately 10 people have been arrested under the new law, none had been prosecuted by year's end.

Local committees were voluntarily set up in every region, and without financial or legal support, these committees investigated reports of trafficking. The government had little or no funding to investigate traffickers or trafficking rings. The police had limited success in intercepting victims of trafficking, and prosecution of traffickers was rare. Most persons that security forces arrested or detained for trafficking ultimately were released for lack of evidence. No records were available of the number of individual traffickers who were prosecuted during the year.

Government agencies involved in antitrafficking efforts included the Ministry of Population, Social Affairs, and Protection of Women; the Ministry of Health; the Ministry of Security; the Ministry of Justice; the Ministry of Labor; and the security forces (especially police, army, and customs units). The government cooperated with the governments of Ghana, Benin, and Nigeria under a quadripartite law allowing for expedited extradition among those countries.

The country remained a country of origin, transit, and destination for trafficking in persons, primarily children. More young girls than boys were the victims of trafficking. Trafficking in women for the purpose of prostitution or nonconsensual labor as domestic servants occurred.

While official statistics for trafficked persons were not available, trafficking occurred throughout the country. The majority of the country's trafficking victims were children from the poorest rural areas, particularly those of Kotocoli, Tchamba, Ewe, Kabye, and Akposso ethnicities and mainly from the Maritime, Plateau, and Central regions. Adult victims usually were lured with phony job offers. Children were often trafficked abroad by parents misled by false information. Sometimes parents sold their children to traffickers for bicycles, radios, or clothing, and signed parental authorizations transferring their children into the custody of the trafficker.

Children were trafficked into indentured and exploitative servitude, which amounted at times to slavery. Most trafficking occurred internally, with children trafficked from rural areas to cities, primarily Lome, to work as domestics, produce porters, or roadside sellers. Victims were trafficked elsewhere in West Africa and to Central Africa, particularly Cote d'Ivoire, Gabon, and Nigeria; in Europe, primarily France and Germany; and in the Middle East, including Lebanon and Saudi Arabia. Children were trafficked to Benin for indentured servitude and to Cote d'Ivoire and Ghana for domestic servitude. Boys were trafficked for agricultural work in Cote d'Ivoire and domestic servitude and street labor in Gabon. They were fed poorly, clothed crudely, cared for inadequately, given drugs to work longer hours, and not educated or permitted to learn a trade. There were reports that young girls were trafficked to Nigeria for prostitution.

The country was a transit point for children trafficked from Burkina Faso, Ghana, Cote d'Ivoire, and Nigeria. There were credible reports that Nigerian women and children were trafficked through the country to Europe (particularly Italy and the Netherlands) for the purpose of prostitution.

The International Labor Organization/International Program for the Elimination of Child Labor (ILO/IPEC) office in Lome reported that from September 2003 to August 2004, local committees and security forces intercepted 1,837 children aged 6 to 17 in the process of being trafficked. The National Committee for the Reception and Social Reinsertion of Trafficked Children reported that 2,458 children ranging from ages 5 to 17 were repatriated to the country between 2002 and 2004.

Traffickers were believed to be men and women of Togolese, Beninese, and Nigerian nationalities.

There were no reports that governmental authorities or individual members of government forces facilitated or condoned trafficking in persons. There were no reports that customs, border guards, immigration officials, labor inspectors, or local police received bribes from traffickers, although it was possible given the high level of corruption in the country.

The government provided only limited assistance for victims, primarily because of a lack of resources. The NGO *Terre des Hommes* assisted recovered children until their parents or next-of-kin could be notified. Assistance was also available from a government-funded Social Center for Abandoned Children. CARE International-Togo worked with three NGOs—*Terre des Hommes*, *La Colombe*, and *Ahuefa*—on reinsertion of trafficked children, awareness campaigns for parents and communities, keeping children in schools, and supporting women's income-generating ac-

tivities. During the year, ILO/IPEC worked with other NGOs to increase awareness of the trafficking problem.

During the year, local government officials worked closely with NGOs to conduct public awareness campaigns. ILO/IPEC assisted the government in organizing and training regional and local committees, and in sensitizing and educating parents on the dangers of child trafficking and labor throughout the country.

Persons with Disabilities.—A new law enacted in November prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, but the government did not effectively enforce these provisions. There was no overt state discrimination against persons with disabilities and some held government positions, but there was societal discrimination against persons with disabilities. It was not clear whether persons with disabilities would have meaningful recourse against private sector or societal discrimination with the new law. The government does not mandate accessibility to public or private facilities for persons with disabilities. Although the law nominally obliged the government to aid persons with disabilities and shelter them from social injustice, the government provided only limited assistance.

National/Racial/Ethnic Minorities.—The population included members of approximately 40 ethnic groups that generally spoke distinct primary languages and were concentrated regionally in rural areas. Major ethnic groups included the Ewe (between 20 and 25 percent of the population), the Kabye (between 10 and 15 percent), the Kotokoli (between 10 and 15 percent), the Moba (between 10 to 15 percent), and the Mina (approximately 5 percent). The Ewe and Mina were the largest ethnic groups in the southern region and the Kabye was the largest group in the less prosperous northern region.

Although prohibited by law, members of all ethnic groups routinely practiced societal favoritism on the basis of ethnicity. In particular, favoritism by southerners for southerners and by northerners for northerners was evident in private sector hiring.

The relative predominance in private sector commerce and professions by members of southern ethnic groups, and the relative prevalence in the public sector and especially the security forces of members of late president Eyadema's Kabye group and other northern groups, were sources of political tension. Political parties tended to have readily identifiable ethnic and regional bases: the RPT party was more represented among northern ethnic groups than among southern groups; the reverse was true of the UFC and Action Committee for Renewal opposition parties.

In addition, due to the congruence of political divisions and ethnic and regional divisions, human rights abuses motivated by politics at times had ethnic and regional overtones.

Other Societal Abuses and Discrimination.—Although the government passed a law prohibiting discrimination against them in November, persons infected with HIV/AIDS faced significant societal discrimination.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers, except security forces, including firefighters and police, with the right to join unions, and they exercised this right in practice. The Ministry of Economy and Finance and Privatization estimated that the country's total workforce was approximately 1.6 million out of an estimated working population of 2.3 million persons. Approximately 72 percent of the working population was in the agriculture sector where employment was not stable and wages were low. The informal sector provided for an estimated 22 percent of total employment. Approximately 60 to 70 percent of the formal sector work force was union members or supporters.

b. The Right to Organize and Bargain Collectively.—The Labor Code nominally provides workers with the right to organize and bargain collectively; however, the government limited collective bargaining to producing a single nationwide agreement that had to be negotiated and endorsed by representatives of the government, labor unions, and employers. All formal sector employees were covered by the collective bargaining agreement that set nationwide wage standards for all formal sector workers. The government participated in this process both as a labor-management mediator and as the largest employer in the formal sector, managing numerous state-owned firms that monopolized many sectors of the formal economy. The collective bargaining process did not occur for several years under the late President Eyadema. Individual groups in the formal sector could attempt to negotiate agreements more favorable to labor through sector-specific or firm-specific collective bargaining, but this option was rarely used.

The law provides most workers the right to strike, but security forces and government health workers did not have this right. There is no specific law prohibiting

retribution against strikers by employers, and the Ministry of Labor failed to enforce the prohibition on antiunion discrimination. There were no strikes during the year.

The law allows the establishment of export processing zones (EPZs). Many companies had EPZ status, and approximately 70 were in operation. The EPZ law provides exemptions from some provisions of the Labor Code, notably the regulations on hiring and firing. Employees of EPZ firms did not enjoy the same protection against antiunion discrimination as did other workers. Workers in the EPZs were prevented from exercising their freedom of association because unions did not have free access to EPZs or the freedom to organize workers.

c. Prohibition of Forced or Compulsory Labor.—The law does not specifically prohibit forced compulsory labor, including by children, and there were reports such practice occurred (see sections 5 and 6.d.). Children sometimes were subjected to forced labor, primarily as domestic servants.

d. Prohibition of Child Labor and Minimum Age for Employment.—The Labor Code prohibits the employment of children under the age of 14 in any enterprise; however, child labor was a problem, and many children worked on family farms. Some children started working as young as age five. These children routinely missed at least two-thirds of the school year. In some cases children worked in factories.

For some types of industrial and technical employment, the minimum age is 18. Inspectors from the Ministry of Labor enforced these age requirements but only in the formal sector in urban areas. In both urban and rural areas, particularly in farming and small scale trading, very young children traditionally assisted in their families' work. In rural areas, parents sometimes placed young children into domestic work in other households in exchange for one-time fees as low as \$25 to \$35 (12,500 to 17,500 CFA francs).

Trafficking in children was a problem (see section 5).

The Ministry of Population, Social Affairs, and Promotion of Women was responsible for enforcing the prohibition of the worst forms of child labor, but few resources were allotted for its implementation, and enforcement was weak. In November, this ministry, in conjunction with several NGOs and UNICEF, embarked on a campaign to improve the lives of children. These groups initiated this campaign to raise awareness of issues such as child labor and trafficking in the hopes of eradicating them.

e. Acceptable Conditions of Work.—The government sets minimum wages for different labor categories, ranging from unskilled through professional positions. In practice less than the official minimum wage often was paid, mostly to unskilled workers. Official monthly minimum wages ranged from approximately \$20 to \$33 (10 thousand to 16 thousand CFA francs) and did not provide a decent standard of living for a worker and family. Many workers supplemented their incomes through second jobs or subsistence farming. The Ministry of Labor was responsible for enforcement of the minimum wage system but did not enforce the law in practice.

Working hours of all employees in any enterprise, except for the agricultural sector, normally are not to exceed 72 hours per week; at least one 24-hour rest period per week is compulsory, and workers are expected to receive 30 days of paid leave each year. The law requires overtime compensation, and there are restrictions on excessive overtime work; however, the Ministry of Labor's enforcement was weak, and employers often ignored these provisions.

A technical consulting committee in the Ministry of Labor set workplace health and safety standards. It may levy penalties on employers who do not meet the standards, and employees have the right to complain to labor inspectors of unhealthy or unsafe conditions without penalty. In practice, the ministry's enforcement of the various provisions of the Labor Code was limited. Large enterprises are obliged by law to provide medical services for their employees and usually attempted to respect occupational health and safety rules, but smaller firms often did not. Although workers have the legal right to remove themselves from unsafe conditions without fear of losing their jobs, in practice some could not do so. Labor laws do not provide protection for legal foreign workers.

UGANDA

Uganda, with a population of 26.4 million, is a republic led by President Yoweri Museveni, who continued to dominate the government. The 2001 presidential and parliamentary elections generally reflected the will of the electorate; however, both were marred by serious irregularities. The government continued its 19-year war

against rebels of the Lord's Resistance Army (LRA) in the northern and eastern portions of the country and in southern Sudan. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted independently of government authority.

The government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. The following human rights problems were reported:

- restrictions on opposition party activity
- unlawful killings by security forces
- disappearances
- security forces' use of torture and abuse of suspects
- vigilante justice
- harsh prison conditions
- official impunity
- arbitrary arrest, incommunicado detention, and lengthy pretrial detention
- restricted right to a fair trial
- infringement of privacy rights
- restrictions on freedom of speech, the press, association, and assembly
- limited freedom of religion
- abuse of internally displaced persons (IDPs)
- government corruption
- violence and discrimination against women
- female genital mutilation (FGM)
- violence and abuse of children, particularly sexual abuse
- trafficking in persons, particularly children
- violence and discrimination against persons with disabilities
- forced labor, including by children
- child labor

The government took significant steps to improve human and workers' rights during the year. In October the parliament passed a series of reforms that allow political parties to participate in government and compete in elections. These reforms followed the July referendum in which citizens voted to adopt a multiparty system of government. The government proposed an employment law to eliminate burdensome requirements to form a union and the Constitutional Court overturned a provision that restricted the number of national trade union associations.

The LRA, led by Joseph Kony, committed numerous, serious abuses and atrocities, including the abduction, rape, maiming, and killing of civilians, including children. The LRA used children as soldiers, held children and others in slave-like conditions, and subjected female captives to rape and other forms of severe sexual exploitation. For much of the year approximately 30,000 children known as "night commuters traveled from conflict areas or internally displaced persons (IDP) camps each night to urban centers in order to avoid abduction by the LRA.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, security forces committed unlawful killings during the year and were responsible for deaths as a result of torture.

On March 23, Alex Okullo, a member of the Local Defense Unit (LDU) militia in Kitgum District, killed two civilians. Police arrested Okullo; there was no further information available by year's end.

On March 31, in Gulu District, Private Tony Eremo of the Uganda People's Defense Forces (UPDF), killed high school student Francis Ocaya Okot. Private Eremo suspected the student was an LRA rebel because he was walking in public after dark. On April 8, military police arrested Eremo and charged him for the killing. He was awaiting trial at year's end.

In August UPDF Privates Lazarus Avil Kwasigwee and Johnson Asiimwe killed businessman Sam Abol in Pader District. Authorities suspected that the soldiers conspired with a lodge owner to kill the businessman in order to rob him. In Sep-

tember the suspects and several others were arrested; charges were still pending at year's end.

On December 26, UPDF Private Joel Lubangakene killed 18-year-old Ojok Ojara after they had a personal dispute at Gulu District dance club. The military arrested Lubangakene, and he was awaiting trial at year's end. On the day of the killing an angry crowd of civilians marched on the local UPDF barracks to protest the killing. The UPDF fired on the mob and killed seven civilians. According to the army, the UPDF acted in self defense.

There were no developments in any of the unlawful killings committed by security forces in 2004 or 2003.

There were a number of deaths in custody, some due to torture.

On January 3, Noah Katungi died in police custody after being arrested for theft. On February 2, police officers Stephen Kasiba, Hannington Opio, and Julius Oboch were charged with the killing; they were awaiting trial at year's end.

On August 30, the Uganda Human Rights Commission (UHRC) ordered the government to pay approximately \$16,000 (30 million shillings) in compensation to the family of the late Patrick Owomugisha Mamenero, who died in July 2002 in custody of the Chieftancy of Military Intelligence (CMI).

On September 2, John Atwine, a key suspect in a high-profile killing, died in Luzira Upper Prison under mysterious circumstances. Authorities investigated the death, but no arrests were made by year's end.

There were no reports of any action taken against security forces responsible for torture-related deaths in 2004 or 2003.

Use of excessive force by security forces while pursuing suspected criminals resulted in deaths. On February 5, police in Busia District killed Abdallah Mumiro when they opened fire on a group of Muslims who resisted an inspection of sanitary facilities. A police investigation determined that the death was accidental.

On June 23, Special Police Constables Joel Adrama and Dickson Anguyo in Arua District beat to death Zacharia Ocitia, who allegedly insulted the constables. On July 5, the constables were charged with the killing, and awaited trial at year's end.

On August 25, security force personnel in Ntungamo District killed suspected robbers Edson Sajabi, Charles Mworzi, and Benon Kankiriho during a crackdown on criminals. There were no reports of action taken against any security personnel.

There were no developments in 2004 or 2003 security force killings of criminals as a result of excessive force.

During the year security forces killed numerous civilians during anti-LRA operations (see section 1.g.).

LRA attacks continued during the year and resulted in hundreds of deaths (see section 1.g.).

Unlike in the previous year, there were no reports that LRA landmines resulted in deaths and injuries.

During the year raids by armed cattle rustlers of the Karamojong ethnic group continued in Katakwi, Nakapiripirit, Moroto, Sironko, Kitgum and Kapchorwa Districts. These raids resulted in the deaths of more than 200 civilians and the displacement of thousands. The government continued its Karamoja disarmament program during the year (see section 5). UPDF forces killed numerous persons during clashes with armed Karamojong warriors.

The war in the north and violence in Karamoja resulted in significant numbers of deaths due to interethnic violence (see section 5).

Incidents of vigilante justice were reported frequently during the year. There were numerous instances in which mobs killed individuals suspected of committing crimes. On January 18, family members in Lira District beat to death a man suspected of raping a four-year-old girl. On May 20, residents in Mukono District lynched a suspected cannibal. On June 14, Makerere University students in Kampala burned to death a person who tried to break into a women's hostel on campus. There were no charges in either of these cases.

Unlike in the previous year, there were no reports of the ritual killings of children.

Ethnic Pokot warriors killed civilians and security forces during the year. On August 11, two Pokot warriors killed two civilians in Kapchorwa District while stealing cattle. On September 23, Pokot warriors from Kenya killed four police officers after rustling cattle in the country. The warriors retreated to Kenya and remained at large at year's end.

b. Disappearance.—There was one report of a disappearance due to incommunicado detention by government forces. In addition, there continued to be other reports of disappearances during the year.

On March 11, relatives of Esther Luggya, a former member of the opposition party Reform Agenda, reported her missing since December 2004. There were no further developments in the case by year's end.

On May 21, six armed men in military uniform kidnapped three persons including local government official Geoffrey Mwebase during a raid on Bukinda village in Hoima District. The incident was reportedly related to a land dispute. There were no further developments in the case during the year.

On November 15, Achikulo Abuko, Amir Yahaya, Kesia Yasin, and Zacharia Obba were transferred from Luzira prison to incommunicado detention. The four men were charged along with opposition leader Kizza Besigye with treason. Prison officials said they were transferred to another prison to alleviate overcrowding. The suspects' lawyers were unable to verify the transfer or meet with them by year's end.

The whereabouts of 10 members of the opposition party Uganda People's Congress (UPC) arrested by the CMI in July 2004 were still unknown at year's end. The 10 members were arrested with 5 others who were charged in July 2004 and released on bail.

The whereabouts of James Kashaija, who was apprehended by armed men in uniform in October 2004, was still unknown at year's end.

Despite a February 2004 high court order to produce Captain Robert Ruteinama, the UPDF did not relinquish custody. Ruteinama was believed to be held in incommunicado detention since 2003.

According to the UN Children's Fund (UNICEF), rebel groups have abducted approximately 38,000 persons since 1986. The LRA continued to abduct hundreds of civilians for training as guerrillas; most victims were children and young adults whom the LRA forced into virtual slavery as laborers, soldiers, guards, and sex slaves (see sections 1.g. and 5).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were credible reports that security forces tortured and beat suspects. Many of these incidents occurred in unregistered detention facilities and were intended to force confessions. The UHRC received approximately 58 complaints of torture during the year, which was less than half the number of complaints received in 2004. The UHRC conducted human rights training for the police and military throughout the year.

On April 21, UPDF Private William Bisogo allegedly tied up Opiyo Ajonga in a painful and unauthorized manner. In May authorities arrested Bisogo for torture; there was no further information available at year's end.

On May 4, John Barigye Bakirahi and Peter Agom, UPDF soldiers charged with spying for the Rwandan government, claimed they were tortured throughout their detention in CMI custody. The suspects were admitted to Mbuya military hospital to treat injuries apparently sustained as a result of torture. On September 6, their lawyer stated in a court martial that the suspects' testicles were tied to big stones to extract confessions.

In May the UN Committee Against Torture (UNCAT) reviewed the country's compliance with the UN Convention Against Torture. The UNCAT noted its concern of continued allegations of torture and the apparent impunity of its perpetrators. On May 10, Human Rights Watch and the Foundation for Human Rights Initiative released a joint report citing examples of torture such as caning, severe beating, and inflicting pain to the genitals carried out by security forces in the last two years. The government response noted that action was taken against 13 police officers over torture allegations since 2003. Security units involved in torture included the police, the UPDF, the CMI, and the Violent Crimes Crack Unit (VCCU); on occasion, such torture resulted in death (see section 1.a.).

Police and security forces harassed and detained opposition activists (see sections 1.d. and 2.b.).

There were reports that UPDF soldiers raped persons, particularly in conflict areas and in or near IDP camps (see sections 1.g. and 5).

On June 25, the UHRC revealed that the government owed approximately \$425,000 (790 million shillings) awarded by the tribunal to approximately 60 persons. The UHRC Tribunal confirmed approximately 22 torture complaints and ordered the government to compensate the victims. However, many complainants had not received compensation by year's end.

On January 19, the UHRC awarded approximately \$8,175 (15 million shillings) to Idrisi Kasekedde for torture suffered while in prison in 1998. On February 25, the UHRC awarded approximately \$545 (1 million shillings) to Wilson Kimuli for being tortured while in prison in 2000. On April 5, the UHRC awarded approximately \$1,090 (2 million shillings) to Gregory Babukika for being tortured by prison wardens in 2001.

No action was taken during the year against security organizations that reportedly tortured prisoners in Kigo Prison or CMI personnel who were illegally arresting and torturing persons to force them to pay their financial debts; in July 2003, the UHRC testified of such incidents before the Legal and Parliamentary Affairs Committee. No action was taken against VCCU officers responsible for the 2003 torture of Bumali Mubiri and Sam Okiring.

There were no developments in the December 2004 torture of Sam Aniga or the 2003 torture of prisoners at Makindye military barracks.

During the year civilians were killed, injured, and displaced as a result of security force operations against the LRA (see section 1.g.).

During the year the LRA continued to commit numerous atrocities, including the killing, torture, sexual abuse, and kidnapping of civilians, primarily children (see section 1.g.).

There were numerous instances in which mobs attacked suspected thieves and other persons known or suspected to have committed crimes (see section 1.a). Motivated in part by distrust or misunderstanding of the formal judicial system, these mobs engaged in beatings, lynchings, and other forms of mistreatment.

Prison and Detention Center Conditions.—Prison conditions remained harsh and frequently life threatening, primarily as a result of the government's severely inadequate funding of prison facilities. In addition, there were several reports that security forces and guards tortured inmates. Prison conditions came closest to meeting international standards in Kampala, where prisons provided medical care, running water, and sanitation; however, these prisons also were among the most overcrowded. There were an estimated 19,258 inmates in the country's prisons and police cells. By one estimate, the country's prisons held approximately three times their planned capacity. Severe overcrowding also was a problem at juvenile detention facilities and in women's wings of prisons. The remand home in Kampala, designed for 45 inmates, held more than 123 children. The reception center, designed for 30 children, held 73 juveniles under the age of 12.

A Lira District prison official admitted in August that food shortages prevented 500 inmates from receiving regular meals. The central prison system continued to work with NGOs and the donor community to improve prison buildings, water and sanitation systems, food, and the provision of uniforms; however, progress was minimal during the year. Although the law provides for access to prisoners by their families, ignorance of this right and fear of prison authorities often limited family visits. Prisoners held on treason charges complained that security officers kept files on and harassed their visitors. Opposition leader Kizza Besigye claimed prison authorities restricted access to his lawyers and prevented them from having private meetings to prepare a defense.

The UHRC reported that it received allegations that officers in charge of prisons sometimes demanded bribes to allow visits. There were no investigations conducted during the year. On July 25, the government gave 59 senior prison officers the powers of magistrates to try inmates and prison staff suspected of committing offenses.

Inmates at most prisons grew maize, millet, and vegetables; however, the UHRC accused prison farms of overworking inmates and prisoners as young as 12 performed manual labor from dawn until dusk (see section 6.c.).

The Community Service Act seeks to reduce prison congestion by allowing minor offenders to do community service in lieu of imprisonment. Since 2001 2,953 offenders have been sentenced to community service. In July the high court also launched "Operation Open Gate" to reduce congestion of pretrial detainees. The operation created special court sessions to fine and release petty criminals who were willing to plead guilty.

Prisons were believed to have high mortality rates from overcrowding, malnutrition, diseases spread by unsanitary conditions, HIV/AIDS, and lack of medical care; however, accurate estimates were unavailable. According to the prisons department, 272 inmates died in custody during the year. Approximately 60 percent of these deaths were due to HIV/AIDS-related diseases.

Although there were no available statistics, there were reports of deaths in custody due to neglect and adverse conditions such as denial of medical attention.

Due to lack of space in juvenile facilities, juveniles often were held in prisons with adults. In Kampala jails, pretrial detainees were separated from convicted prisoners; however, in the rest of the country, due to financial constraints, pretrial detainees and convicted prisoners sometimes were held together.

During the year the government permitted access to prisons by the International Committee of the Red Cross (ICRC), foreign diplomats, and local nongovernmental organizations (NGOs), principally the Foundation for Human Rights Initiative (FHRI) and the Uganda Prisoners' Aid Foundation. The UHRC visited numerous prisons and reported on its findings publicly. There was no government action on

the UHRC findings by year's end. Prison authorities required advance notification of visits, a process that was sometimes subject to administrative delays.

d. Arbitrary Arrest or Detention.—The law prohibits such practices; however, members of the security forces arrested and detained citizens arbitrarily during the year.

Role of the Police and Security Apparatus.—The Uganda Police Force (UPF), under the Ministry of Internal Affairs, has the primary responsibility for law enforcement and maintenance of order in the country. The UPDF is the key security force and has partial responsibility for maintaining order in the north, where it was deployed to protect civilian IDPs from rebel attacks. The Internal Security Organization (ISO), under the direct authority of the President, is a domestic intelligence-gathering body. ISO force personnel occasionally detained civilians. The External Security Organization (ESO), which also reports to the President, also gathered intelligence and occasionally detained civilians. The CMI, under UPDF control, detained civilians suspected of rebel and terrorist activity. Local leaders formed LDUs to reinforce government efforts to protect civilians from LRA attacks. In some cases LDUs also participated in offensive military operations and carried out police functions. The UPDF consolidated command and organization of the LDUs under its authority during the year.

The police force continued to be constrained by limited resources, including low pay and lack of vehicles, equipment, and training. Police committed numerous abuses, and impunity was a problem. Corruption resulted in the dismissal of some local police officials during the year. In conjunction with the UHRC, the UPDF continued a training program to educate military officers on internationally recognized human rights standards. In addition, the police, UPDF, and the prisons department used human rights manuals in their training programs. The UPDF made attempts to improve relations between soldiers and civilians. The Police Human Rights Desk, charged with investigating police abuses, received 330 allegations of police abuse and reported that approximately 117 complaints had been resolved by year's end.

Arrest and Detention.—The law requires search warrants issued by competent judges or prosecutors to make arrests; however, in practice suspects often were taken into custody without warrants. Despite a provision that suspects must be charged within 48 hours of arrest, many persons were detained longer without being charged. Suspects must be brought to trial or released on bail within 120 days (360 days for a capital offense); however, if the case is presented to the court before the expiration of this period, there is no limit on pretrial detention. Detainees must be informed immediately of the reasons for their detention, although authorities did not always enforce these procedural protections in practice. The law provides for bail, except in capital cases and cases of treason, and bail was provided in practice.

Suspects must have access to a lawyer; however, there was no provision ensuring family visitation. By law, indigent suspects are provided a lawyer; however, this was not enforced in practice due to resource constraints of the government. Incommunicado detention was a problem during the year.

The Anti-Terrorism Act permits suspects to be held for more than 48 hours without charge and states that persons convicted of terrorist acts that “directly result in the death of any person” shall be sentenced to death. The UPDF General Court Martial charged opposition leader Kizza Besigye and 22 others with the crime of terrorism as defined by the act. The suspects remained in detention awaiting court martial proceedings at year's end, despite being granted bail by the High Court for similar charges pending in the civilian court system.

Security forces arbitrarily arrested political activists during the year. On February 3, security force personnel in Arua District arrested Joseph Agupio, a former district mobilizer for opposition party leader and presidential candidate Kizza Besigye. Agupio was still in detention at Arua military barracks at year's end.

On March 7, UPDF soldiers in Gulu District arrested Otim Orach in Pabbo IDP camp and took him to the Gulu Military barracks, where they allegedly told him that he would not be released until he swore allegiance to President Museveni's ruling party, the Movement. There was no further information on Orach by year's end.

On March 16, Rukungiri District security force personnel arrested Christopher Turyagayo, an opposition party district coordinator, for wearing an opposition party T-shirt. Turyagayo remained in detention pending police charges at year's end.

On April 20, police arrested members of parliament (MPs) Ronald Reagan Okumu and Michael Ócula for the 2002 killing of Alfred Bongomin, a former local government chairman of Pabbo Sub-County in Gulu District. On March 9, UPDF soldiers arrested three other suspects—David Ochieng, Ochan Lalyang and Stephen Otim—for the same crime. On April 22, the UPDF transferred all five suspects to Kampala

and charged them. On May 17, Okumu and Ocula were released on bail; on August 19 the others were released on bail. The trial began on November 20; the state withdrew charges on December 9 against Ochieng and Lalyang. The trial for the remaining three defendants was ongoing at year's end.

On November 15, police arrested 44 supporters of the Forum for Democratic Change (FDC) for "causing chaos during protests over the jailing of opposition leader Kizza Besigye. On December 13, a Kampala court dismissed the charges against them. Police arrested journalists during the year (see section 2.a.).

Mass arrests during police sweeps for criminals remained a problem. On January 3, police arrested approximately four hundred persons in Mukono during an operation to check whether residents had paid taxes. On January 31, police arrested 60 people in Kampala for being idle and disorderly.

During the year, the UHRC received 29 complaints from persons claiming to have been arbitrarily arrested. The UHRC tribunal confirmed that 28 of the complaints were cases of arbitrary arrest and awarded compensation; the government made no disbursements during the year.

No action was taken during the year against the UPDF officer who ordered the illegal 2003 arrest of Gulu State Attorney Sydney Asubo.

There were reports of political detainees, and the government continued to arrest persons for treason; however, the government failed to bring any treason case to trial. Opposition parties claimed that approximately 60 supporters were arrested during the year for political reasons. The ICRC registered approximately 200 detainees held for offenses against the security of the state. The government permitted access to political detainees by international humanitarian organizations.

Treason suspects were subject to numerous abuses, such as detention without charge, detention in unregistered and unofficial locations, and mistreatment, including torture (see section 1.c.).

On April 22, authorities charged Patrick Ochola, Mike Musiluwa, Johnson Otim and Sula Serumbi with treason. The three, who were arrested in 2004 for allegedly plotting to overthrow the government, were members of the unregistered political party Citizen Multiparty Democracy.

On July 5, the high court ordered the release of Charles Ekeku and Francis Ogwang Olebe after prosecutors withdrew treason charges. Both suspects were local politicians and had been held since 2003.

On August 12, the high court granted bail to 12 persons charged with treason for collaborating with the rebel group People's Redemption Army (PRA). The suspects had been detained since 2003.

On November 15, authorities charged opposition leader Kizza Besigye and 22 others with treason for terrorism and weapons possession in the UPDF General Court Martial. Some suspects had been arrested in November and December 2004. The High Court granted bail to 15 of the accused, including Besigye, but the military forced all of them to remain in prison and they awaited trial at year's end.

Patrick Biryomumaisho Kirasha and four others accused in 2003 of recruiting for the PRA rebel group remained in detention at year's end.

Legal and human rights groups criticized the excessive length of detention prior to trial, which in many cases amounted to several years; such lengthy pretrial detentions both violated the constitutional rights of the detainees and contributed substantially to prison overcrowding (see section 1.c.). The average time in pretrial detention was between two and three years. Pretrial detainees comprised 60 percent of the prison population. During the year, the UHRC heard several cases brought by prisoners challenging the length of their detention.

There were reports that civilians were detained in military barracks and unregistered detention facilities known as safe houses. There were credible allegations that the CMI ordered detainees held incommunicado at police stations or in so-called safe houses.

There was no further information on the whereabouts of Titus Kiwannuka, who had been detained in March 2004. The military transferred Kiwannuka to Kigo Prison on orders from the High Court; however, Kigo Prison officials had stated that he was no longer at the prison facility.

Amnesty.—The government has offered a blanket amnesty to former combatants since 2000 as a means to induce defection and surrender of LRA rebels and members of other rebel groups. During the year, 691 former LRA combatants applied for and received amnesty.

On March 25, police released George William Mugisha Kyalimanya after he was granted amnesty. Kyalimanya was arrested in November 2004 on suspicion of collaborating with the PRA.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice; however, the president has extensive legal powers of judicial appointment. The president appoints supreme court, high court, and court of appeal judges with the approval of parliament. The president also nominates, for the approval of parliament, members of the Judicial Service Commission, who make recommendations on appointments to the judiciary. The judiciary ruled against the government on several high-profile cases during the year; however, judicial corruption was a common problem. The lower courts remained understaffed, weak, and inefficient.

The highest court is the Supreme Court, followed by the court of appeal, which also functions as the constitutional court; the high court; the chief magistrate's court; local council (LC) sub county courts, LC parish courts; and LC village courts.

The constitutional court ruled against the government on several cases during the year, including a June 9 decision that found unconstitutional the mandatory death penalty attached to capital crimes, and death penalties that were not carried out within three years of sentencing. On June 20, the court found that a law restricting the number of national trade union associations was unconstitutional.

The LC courts have the authority to settle civil disputes, including land ownership and debt cases, and criminal cases involving children. These courts, often the only ones available to villagers, reportedly exceeded their authority by hearing criminal cases. LC court decisions can be appealed to magistrates' courts; however, there often were no records made at the village level, and some defendants were not aware of their right to appeal.

Trial Procedures.—An inadequate system of judicial administration and a lack of resources, resulting in a serious backlog of cases, limited the right to a fair trial. All nonmilitary trials are public, but without juries. Defendants have the right to be present and to consult with an attorney in a timely manner. The law requires that the government provide an attorney for indigent defendants accused of capital offenses, but there rarely was enough money to retain adequate counsel. By law defendants can confront or question witnesses against them and present witnesses and evidence on their behalf. Defendants and their attorneys have limited access to government-held evidence relevant to their cases. There is a presumption of innocence and defendants have the right of appeal.

Specialized courts also exist. The industrial court adjudicates labor disputes. Commercial courts resolve commercial disputes; they have significantly improved commercial justice and reduced case backlogs.

The military court system often did not assure the right to a fair trial. Although the accused has the right to legal counsel, some military defense attorneys were untrained and could be assigned by the military command, which also appoints the prosecutor and the adjudicating officer. The law establishes a court martial appeals process; however, a sentence passed by a military court, including the death penalty, could be appealed only to the senior leadership of the UPDF. Under circumstances deemed exigent, a field court martial could be convened at the scene of the crime. The law does not permit appeal of a conviction under a field court martial. The Military General Court Martial can try civilians charged with crimes listed under the UPDF Act.

On May 30, the UPDF General Court Martial charged Brigadier General Henry Tumukunde with two counts of conduct prejudicial to good order and discipline and two counts of spreading harmful propaganda. The charges were based on his statements that he had been prevented from retiring from the army and that he would not join President Museveni's political party after retirement. Tumukunde was awaiting trial at year's end.

The VCCU arrested 1,100 suspects on various counts during the year, including aggravated robbery, killing, illegal possession of firearms, and desertion. The VCCU used military courts to try by court martial civilians found in possession of military property.

Political Prisoners.—Bright Gabula Africa, whose death sentence for treason was upheld by the Supreme Court in 1995, remained imprisoned pending the outcome of his appeal to the Advisory Committee on the Prerogative of Mercy, a largely autonomous constitutional body. There were no confirmed visits to Gabula Africa by international humanitarian groups during the year.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions with some exceptions. At times police did not obtain search warrants, as required by law, to enter private homes and offices. On July 20, two local government officials searched and confiscated items without a warrant from the home of Juliet

Mukasa, a women's rights activist and chairperson of the NGO Sexual Minorities in Uganda.

The Anti-Terrorism Act authorizes certain law enforcement officials to intercept communication to detect and prevent terrorist activities. There were no reports of such interceptions during the year.

There were reports that the government punished family members of suspected criminals and political opposition members (see section 1.g.).

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Security forces tortured and abused civilians suspected of collaborating with the LRA; however, unlike in previous years, there were no reports that security forces killed suspected collaborators. UPDF soldiers reportedly tortured suspected rebels and raped civilians living in IDP camps.

During the year security forces killed and injured numerous civilians, including noncombatant children abducted by the LRA, during anti-LRA operations in the northern and eastern parts of the country. Some observers charged that UPDF tactics, including extensive use of helicopter gunships, resulted in deaths and injuries to such children and that the UPDF failed to protect noncombatants during engagements with the LRA. The UPDF denied such allegations, noting that more than 80 percent of LRA fighters were child soldiers, which made it difficult to distinguish between combatants and noncombatants during engagements with the LRA.

On April 1, UPDF soldiers in Pader District killed Cecilia Aryemo and Marietta Anying, both residents of Pajule IDP camp, during an operation against the LRA rebels. There were no reports of action taken against the soldiers.

On April 18, UPDF soldiers on patrol in Kitgum District killed five civilian women and injured four others who were fishing in a river near their IDP camp. A UPDF spokesperson said that the soldiers mistook the women for rebels when the women fled as the soldiers approached them.

In August, a UPDF soldier killed Ben Oketta and his wife Donica Ajok as they worked in their garden at Olwal IDP camp. There were no reports of action taken against the soldier.

There were no new developments in the following 2003 killings by UPDF forces: the February killing of a Sudanese national; the July 22 and 24 killings of 21 civilians by UPDF helicopter gunships; and the October 2003 killings of 2 civilians by a UPDF soldiers in Gulu.

There was no action taken against soldiers in the 309 Brigade for firing a mortar in April 2004 in an IDP camp that killed five people.

Security forces tortured and abused civilians suspected of collaborating with the LRA. On February 17, UPDF soldiers reportedly tortured a farmer working on his home outside an IDP camp. Accused of working for the rebels, the farmer was held for one day in the army barracks where soldiers caned him and pulled on his testicles using a rope. There was no further information on the incident by year's end.

Security forces were implicated in reports of rape and sexual violence against women and girls. In some instances, perpetrators were arrested after victims complained. However, most incidents went unpunished, in part because the procedures for making complaints were not widely known.

On March 25, the UPDF arrested four LDU soldiers for raping four women in an IDP camp in Kitgum District. On April 19, Prime Minister Apollo Nsibambi ordered an investigation into the incident after MP Jane Akwero Odwong alleged that more women were raped. There was no further information on the investigation by year's end.

On May 15, four UPDF soldiers were arrested by Kumi District authorities following the rape of two young girls. There were no further developments in the incident by year's end.

There were credible reports that security forces and some government officials provided material support to armed groups operating in the eastern Democratic Republic of Congo (DRC). Militia fighting resulted in the deaths of hundreds of civilians in the DRC.

As in the previous year, the UPDF defended civilians against many LRA attacks but was unable to bring the conflict to an end. LRA attacks continued during the year, and there were numerous atrocities. Civilians were summarily executed, often by gruesome methods, to terrorize local populations or as retribution for violating various LRA edicts, such as the prohibition on riding bicycles. LRA rebels also attacked private homes, schools, and IDP camps in which persons were killed, injured, raped, mutilated, or abducted. During the year LRA attacks resulted in the deaths of hundreds of persons, including children, numerous injuries, and the destruction of homes and property.

On February 23, LRA rebels killed 14 civilians and injured 20 more when they ambushed a passenger vehicle in Gulu. On the following day, a separate band of LRA rebels cut off the lips of seven women in Kitgum district.

On May 6, LRA rebels attacked Koch-Goma IDP camp in Gulu district and killed 20 people.

On May 30, LRA rebels abducted 13 persons when they attacked Abwoch village in Gulu district.

On July 14, LRA rebels killed 14 traders during an ambush in Kitgum District.

On July 23, LRA rebels abducted 20 villagers when they raided Apala village in Lira district.

On August 11, LRA rebels killed 17 persons during an ambush in southern Sudan.

No action was taken against LRA rebels who were responsible for numerous killings in 2004 and 2003.

The LRA continued to abduct thousands of civilians for training as guerrillas; most victims were children and young adults whom the LRA forced into virtual slavery as laborers, soldiers, guards, and sex slaves (see Section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government at times restricted these rights in practice. In addition, the law criminalizes offenses committed by the media and limited the media's ability to function effectively. The government at times harassed and intimidated journalists and journalists continued to practice self-censorship.

In February 2004 the Uganda Law Council upheld the regulation prohibiting lawyers from making public statements on legal matters that were before the court; however, the ban continued to be widely disregarded without penalty.

Private media were generally free and outspoken. There were many privately owned publications and broadcasts. The *New Vision*, a government-owned daily newspaper, sometimes included reporting that was critical of the government. The *Monitor*, the country's largest independent daily newspaper, consistently criticized the government. The *East African*, a Kenya-based weekly publication that provided extensive reporting on the country, continued to circulate without government hindrance. During the year, two new independent weekly newspapers began publication.

The government continued to operate Radio Uganda, the only national radio station, and Uganda Television (UTV), whose reporting was not considered to be independent. There were at least 120 private radio stations in operation. Several independent media outlets broadcast daily or weekly political talk shows, including recorded off-site radio public debates called *ekimeeza* (table talk), which were often very critical of the government. In August the government announced that existing FM radio stations were being technically mismanaged and stopped licensing new stations. By year's end, the government ban on new stations had not been lifted.

In November 2004 Minister of Information James Nsaba Buturo instructed the Uganda Broadcasting Council to revoke the licenses of those stations that "abuse the president or use offensive language and fail to correct the behavior." Buturo also announced that no additional licenses would be issued for stations seeking to broadcast in Kampala; in 2003, the Broadcasting Council proposed regulations that would limit the number of FM radio stations, allegedly to prevent overburdening the airwaves and adversely affecting the quality of broadcasting. Critics charged that the restrictions targeted independent radio, which was the primary news source for 80 percent of the population.

On August 10, President Museveni threatened to close any press organization that threatened the country's national security. On August 11, the Uganda Broadcasting Council closed KFM radio station on grounds that it breached a national security provision in the electronic media law. One of KFM's talk show hosts, Andrew Mwenda, made comments critical of the government and the president's handling of the helicopter crash that killed Sudanese Vice President John Garang. On August 18, the council reopened the station, but ordered that the producer of Mwenda's talk show be fired.

On November 23, Minister Buturo announced a new ban on media coverage of the trial of opposition leader Kizza Besigye. Buturo said the Media Council would revoke the license of any media outlet that provided a forum for discussion or debate on the trial.

There were four local private television stations and numerous private television stations available via satellite.

Security forces arrested and harassed journalists who criticized the government. The leader of a press association, William Rwebembera, publicly criticized the increased intimidation and harassment of journalists by politicians during the year.

On June 21, police in Soroti arrested David Enyaku, a *New Vision* freelance journalist, for allegedly entering an office of the district town clerk with the intent to “annoy” him. Enyaku was released after paying a fine of approximately \$27 (50 thousand shillings).

On September 10, Major General Kahinda Otafiire, Minister of Water, Lands and Environment, pointed a gun at Mike Odongkara, a photojournalist with the *Daily Monitor*, who was taking pictures at the scene of a minor accident involving Otafiire. Odongkara pressed charges against Otafiire; however police had not investigated the incident by year’s end.

On November 29, security officials locked journalists out of the High Court premises when opposition leader Kizza Besigye was re-apprehended on orders from the Military Court Martial after being granted bail by the High Court. Journalists were permitted to cover all civilian court proceedings before and after the incident.

Vincent Matovu, who was arrested in 2003, was released from detention in February after prosecutors withdrew sedition charges against him.

Media laws require that journalists be licensed and meet certain standards, such as possessing a university degree in journalism or the equivalent. A 1994 law also provides for a Media Council with the power to suspend newspapers and deny journalists access to state information.

The government made several statements that encouraged self-censorship. On August 10, President Museveni publicly claimed several journalists irresponsibly disregarded national security interests in the course of their reporting. In the same speech, Museveni threatened to arrest journalists and close down media outlets that continued this pattern of irresponsible journalism. The Minister of State for Information, James Buturo, reminded journalists during the year that even when facts were true, their reporting must be informed by an imperative to preserve national interests.

During the year the government arrested and sued critical journalists, citing national security. On June 1, the government sued the chief editor and two staff reporters of the independent *Weekly Observer* newspaper for publishing confidential material prejudicial to the security of the state. The government claimed that the newspaper unlawfully published documents from the High Command Committee of Inquiry investigating the existence of “ghost soldiers” in the UPDF.

On August 12, police arrested popular radio talk show host Andrew Mwenda on grounds of sedition. The charges were based on his criticism of President Museveni’s leadership and his blame of the government for the helicopter crash that killed Sudanese Vice President John Garang. The government claimed these remarks threatened national security, relations with country’s neighbors, and the security of its citizens abroad. Mwenda was released on bail and awaited trial at year’s end.

In March 2003 the UPDF warned that media outlets that published or broadcast classified information or abetted soldiers in leaking information would be subject to punishment, including the possibility of court martial.

The 2003 ban that prevents the media from reporting the declarations of assets and liabilities made by the country’s political leaders continued; however, no action was taken against journalists who published such information during the year.

There were no government restrictions on the Internet or academic freedom; however the government censored cultural events during the year. On February 15, the Media Council banned a production of the “Vagina Monologues” in Kampala on grounds that it promoted “unnatural sex acts, homosexuality, and prostitution.” The cabinet also endorsed the ban the next day.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law restricts freedom of assembly, particularly for political groups, although some restrictions were lifted in October when parliament amended relevant laws to open the political system to multiple political parties (see section 3).

For groups legally authorized to operate, permits were not required for public meetings; however, groups were required to notify the police prior to such gatherings.

On March 29, Minister of Internal Affairs Ruhukana Rugunda banned all demonstrations related to parliament’s efforts to eliminate term limits.

Police denied permission to hold public rallies to several opposition political groups during the year, blocked public meetings organized by opposition parties, and, on several occasions, disrupted or forcibly dispersed opposition meetings and other events.

The government forcibly broke up several demonstrations during the year. At times police sprayed tear gas and water cannons in large urban centers, which resulted in injuries to bystanders.

On March 31, police in Kampala enforced Rugunda's ban by breaking up a protest opposing the elimination of term limits. The police fired teargas canisters and water cannons to disperse the protestors and arrested 17 persons. Six of the protestors were released on the same day. On April 1, a court charged the remaining 11 protestors with rioting and released them on bail. A trial was pending at year's end.

On May 12, police in Kampala blocked a demonstration organized by opposition MP Ken Lukyamuzi over increased electrical power tariffs and fuel prices.

On June 28, police in Kampala broke up another attempted protest against the abolition of presidential term limits and arrested five persons. Riot police fired tear gas and water cannons to disperse hundreds of demonstrators. Many bystanders were also sprayed with tear gas. On June 30, a court charged the suspects with holding an unlawful assembly and released them on bond. A trial was still pending at year's end.

On July 12, police in Kampala dispersed 20 demonstrators who were protesting against a third term for President Museveni.

On August 6, police in Ntungamo District dispersed a Uganda People's Congress (UPC) rally organized by Yona Kanyomozi, a member of the East African Legislative Assembly.

On November 22, Rugunda banned all demonstrations, public meetings, and seminars related to opposition leader Kizza Besigye's trial. Rugunda said that public meetings would prejudice the court process and undermine the right to a fair trial.

There were no further developments in the following 2004 incidents:

In February 2004 police in Kampala arrested two members of Uganda Young Democrats, affiliated with the opposition Democratic Party (DP), for organizing an illegal assembly. In March 2004 the two were released with a case pending trial at year's end.

In March 2004, government supporters in Jinja dispersed a political meeting organized by the Parliamentary Advocacy Forum (PAFO); several persons were injured, including an MP with disabilities who was pushed through a ground-floor window. A December 2004 report by a parliamentary select committee charged two local officials with primary responsibility for the incident, but recommended that all those responsible be prosecuted.

In June 2004, police in Kyotera, Masaka District arrested and detained 17 activists from the Popular Resistance to a Life Presidency (PRALP) for attempting to hold an illegal assembly. The activists were released after one week and did not appear for their October 2004 court hearing. In December 2004, police issued an arrest warrant for all of them.

In August 2004, police accidentally shot and killed a secondary student during a street battle between Muslims and Christians in Kyazanga Town, Masaka District. Several others were injured in the incident.

Freedom of Association.—The constitution provides for freedom of association; however, the government restricted this right in practice, particularly for opposition political parties and organizations (see section 3). On January 23, the army blocked opposition party leaders Major General Mugisha Muntu of the FDC and MP Cecilia Ogwal of the UPC from attending a fundraising function at Aromo IDP camp in Lira District.

On February 20, Tororo district MP Yeri Ofwono blocked members of the FDC from holding a consultative meeting in his district by locking the gates of the meeting venue, and he reportedly offered bribes to deter attendance.

On March 8 police in Mpigi district blocked female supporters of the FDC from attending the national celebrations marking International Women's Day.

On June 10 a joint force of police and UPDF soldiers blocked an FDC welcome rally for MPs Ronald Reagan Okumu and Michael Ocula at Kaunda grounds in Gulu. The two MPs were returning to their constituency after being released from prison on bail from murder charges. Gulu police authorities stated that the MPs had not sought permission to hold the rally.

On July 1 police in Nakapiripirit District ordered local promoters for the FDC not to hold a rally; however, the promoters defied the order. No action was taken against the organizers of the rally.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice with some minor restrictions. The law requires religious groups and foreign missionaries to register with the government; failure to register is a criminal offense.

The government continued to refuse registration to the World Last Message Warning Church due to continuing suspicions arising from the killings of more than 1,000 citizens in Kanungu in 2000. There were some reports that the government refused to grant registration to other self-proclaimed religious groups on the grounds that the groups were not legitimate religious organizations. Several religious groups shut down by police as suspected "cults" in previous years, remained inactive at year's end.

In addition, bans against nighttime prayer meetings by evangelical churches, reportedly for security and noise abatement reasons, were still in effect in residential areas of several districts.

In March 2004, antiterrorism police in Kampala arrested two Muslim religious leaders and five other suspects on treason charges. The Muslim leaders claimed they were arrested for their religious beliefs, but the government insisted they were arrested for recruiting for the Allied Democratic Forces. The men were in detention awaiting trial at year's end.

On June 1, a court in Arua District charged six suspects with the March 2004 killings of two American missionaries. The suspects were awaiting trial at year's end.

Muslims occupied positions of authority in local and central government; however, some Muslim leaders claimed that the number of positions did not reflect their percentage of the population.

During the year the government arrested leaders of unregistered religious organizations. On February 25, police in Gulu arrested Severino Lukoya, the father of former rebel leader Alice Lakwena, and three other pastors for operating the unregistered New Melita Jerusalem Church. The government refused to register the organization for security reasons. On February 28, police released the four pastors with a warning.

On May 1, police in Mubende District arrested Prophet Ssali Kilimba Mwaka for conducting an illegal society, practicing witchcraft, and being in possession of articles used in witchcraft; Mwaka was later released on bail. On September 21, a court acquitted Mwaka on all charges.

Unlike in the previous year, there were no reports of LRA attacks on religious institutions. In 2003 LRA leader Joseph Kony ordered the LRA to "destroy all church missions and kill all priests in northern Uganda."

No action was taken against LRA rebels responsible for killing, injuring, and abducting religious workers in 2004 and 2003.

Societal Abuses and Discrimination.—Some religious leaders denounced local tribal customs as witchcraft. In one case, a Catholic priest in Mukono District launched a campaign to search and destroy traditional shrines. The government did not take any action against the priest. Four local traditional healers claimed they lost business as a result of the campaign.

The Jewish community represents less than 1 percent of the population. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, the government at times limited them in practice. A married woman must obtain her husband's written permission on her passport application if children are to be listed on her passport.

Unlike in the previous year, there were no reports that government agents seized passports of opposition party members or blocked their travel.

There was no information on whether the law permits or prohibits forced exile. However, the government did not use forced exile during the year.

Internally Displaced Persons (IDPs).—Continued attacks by the LRA and Karamojong warriors caused many ethnic Acholis and Iteso to leave their homes for urban centers, IDP camps, and villages guarded by the UPDF and LDUs. According to the UN Office of the Coordinator for Humanitarian Affairs, there were more than 1.4 million registered IDPs as a result of this violence. At year's end the number of IDPs per affected district was: Gulu, 462,580; Kitgum, 310,140; Pader, 319,506; and Lira, 349,156.

UPDF soldiers reportedly raped women and girls and security forces detained and mistreated suspected LRA collaborators in the camps (see section 1.g). Security forces severely restricted the freedom of movement of IDPs and imposed nighttime curfews in many camps.

During the year, the LRA killed and injured numerous persons during attacks on IDP camps (see section 1.g.). In the north, security forces continued their policy of

maintaining UPDF detachments at IDP camps as a means of protecting civilians and denying support to the LRA.

Although domestic and international humanitarian organizations provided assistance to the estimated 200 IDP camps, health and living conditions remained precarious, and several were the targets of large-scale rebel attacks (see Section 1.g.). IDPs sometimes traveled outside the camps to farm, hunt, and gather wood and water.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the definition of the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; however, the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum. More than 70 percent of the approximately 238,000 refugees in the country were from southern Sudan; there also were refugees from the DRC, Rwanda, and other countries.

The government provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and 1967 protocol and also provided land for temporary resettlement to citizens from neighboring countries.

The government generally cooperated with the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. There were no reports of refugee abuse or discrimination by government authorities.

Unlike in the previous year, there were no LRA attacks against Sudanese refugee settlements.

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; however, the ruling party's domination of the government and some restrictive constitutional and statutory provisions limited citizens' effective exercise of this right.

Elections and Political Participation.—In 2001 six candidates competed in the presidential elections, including President Museveni and Kizza Besigye. President Museveni was reelected with 69.3 percent of the vote. The presidential election generally reflected the will of the population; however, there were many complaints of irregularities prior to and on day of the election, particularly regarding the voting process. There also were numerous reports of election-related violence and intimidation by both the government and the opposition.

In 2001 elections were held for the 214 directly elected parliamentary seats. The elections generally reflected the will of the population; however, there were numerous instances of election-related intimidation and violence. The number of opposition MPs increased from 12 to 35, including 9 UPC MPs and approximately 6 MPs from the DP. Others were affiliated loosely with the DP, and the affiliation of several other MPs was unclear. There were 230 MPs elected from the Movement party, giving it a clear majority; however, a number of moderate Movement MPs kept their seats in spite of President Museveni's active campaigning for their opponents.

On July 28, citizens voted in a national referendum to adopt a multiparty system of government. On October 24, the parliament amended the electoral laws to formally include opposition party participation in elections and in government. There were approximately 25 opposition parties registered by the end of the year. However, before the multiparty system was formally adopted the government restricted non-Movement political gatherings and dispersed numerous political meetings not sanctioned by the Movement (see section 2.b.).

On June 2, the parliament approved a controversial amendment to eliminate presidential term limits, clearing the way for president Museveni to seek a third term in office.

On October 26, FDC leader Kizza Besigye returned from self-imposed exile and was elected as the party's presidential candidate on October 29. On November 14, police arrested Besigye and the next day he and 22 other individuals were charged with treason for allegedly organizing the rebel group PRA. Besigye was also charged the same day with rape that reportedly occurred in 1997.

On November 16, an armed paramilitary group, the Black Mambas, surrounded the High Court to prevent the release of 14 of the co-defendants. Although the High Court granted them bail, the suspects returned to prison to avoid military arrest.

On November 24, the Military General Court Martial charged Besigye with terrorism and possession of firearms. The court martial had charged all 22 of his co-defendants with the same offenses on November 18. Defense lawyers filed suit with the constitutional court arguing that the military court martial violated the principle of double jeopardy. The constitutional suit was pending at year's end.

On November 29, Besigye was granted bail and also forced to return to prison by military officials. Judicial officials, human rights organizations, and the opposition parties denounced the interference of the military. All 23 suspects, including Besigye, remained in prison awaiting trial at year's end.

The ruling Movement regularly held rallies, conducted political activities, and in 2003 registered the National Resistance Movement-Organization, a political party that generally operated without restriction. Approximately 25 new parties were allowed to function, as have political parties that existed in 1986, when the Movement assumed power.

Opposition parties opened offices and registered new members during the year. After the July 28 referendum, opposition parties conducted elections among registered members at the grassroots level for delegates to attend the party conference to select a presidential candidate.

The law requires elections through electoral colleges for the 81 seats reserved for special interest groups in parliament: 56 seats were reserved for women; 5 for organized labor; 5 for persons with disabilities; 5 for youth; and 10 for the army, which were selected by the UPDF High Command, chaired by President Museveni.

There were 72 women in the 305-member parliament, and 16 female ministers in the 60-member cabinet. One woman served as deputy speaker, and another as deputy chief justice of the Supreme Court. Women also headed the Inspectorate General of government and the Criminal Investigation Division of the national police.

The law allocates 56 parliamentary seats to women, 5 seats to workers, 5 seats to persons with disabilities, and 5 to the youth. In addition, 16 women, 1 worker, and 1 person with disabilities were members of the cabinet.

Government Corruption and Transparency.—Corruption continued to be a major problem. Despite credible evidence of wrongdoing, there were no prosecutions of senior officials accused of corruption. The law requires the declaration of wealth by government officials and their family members, and the government enforced the law during the year.

In March an International Monetary Fund (IMF) report charged that the government ordered the Central Bank to release \$10 million (18.5 billion shillings) to pay the creditors of a prominent businessman, Hassan Basajjabalaba. The IMF noted that nontransparent government support to certain companies reinforced perceptions of corruption.

On February 23, the government charged Emmanuel Katto with corruption for offering a bribe to the president's half-brother, Salim Saleh, during the sale of helicopters to the government. A 2003 Judicial Commission report implicated Katto and Saleh in the bribery scheme. However, on June 7, Katto was acquitted and the public prosecutor decided not to pursue an indictment against Saleh.

On August 23, the Global Fund to Fight AIDS, Tuberculosis, and Malaria suspended grants worth \$201 million (362 billion shillings) to the country after an investigation uncovered evidence of serious mismanagement of funds. On August 26, the government suspended all officers who had been managing the funds, and instituted an independent probe commission to investigate the incident. The commission started work on September 21 and was ongoing at year's end.

The 2003 court martial of army officials suspected of maintaining under strength units and pocketing salary payments for so-called "ghost soldiers" was ongoing at year's end.

The law provides for public access to government information, and the government provided such access in practice.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were receptive to their views. Active independent domestic groups included: the FHRI, Uganda Association of Women Lawyers (FIDA-U), Human Rights Focus, the National Association of Women's Organizations of Uganda, the International Federation of Human Rights, and the Human Rights and Peace Center of Makerere University. Government officials continued to attend conferences and seminars hosted by NGOs on social problems and cooperated with NGOs on legal and prison reforms.

No action was taken on the government's 2003 call for a code of NGO conduct to minimize corruption.

The government allowed visits by the ICRC, UNHCR, and several international human rights NGOs, including Amnesty International, Human Rights Watch (HRW), and the International Justice Mission. During the year the ICRC continued its visits to prisons, police stations, and military detention facilities. In September

the ICRC signed a new agreement with the government to permit ICRC visits for the next three years.

The law establishes the UHRC as a permanent independent body with quasi-judicial powers. The president appoints the UHRC's eight-member board. Under the law the UHRC may subpoena information, order the release of detainees, and order the payment of compensation for abuses. In several cases during the year, the UHRC Tribunal awarded compensation to complainants who proved their allegations against the government (see sections 1.c. and 1.d.). The UHRC continued to pursue suspected human rights abusers, including high-level officials in the government and military, and had branches countrywide. The UHRC did not have adequate resources to investigate all complaints it received. The UHRC Tribunal headquarters in Kampala received 267 new cases (compared to 1,080 in 2004), including some against senior government leaders and military and police officials. The UHRC Tribunal opened proceedings for 108 new cases and 143 cases from previous years; it rendered judgment in 63 cases during the year.

A January report by a UN Security Council panel implicated the government for violating a UN-imposed arms embargo in the Democratic Republic of Congo (DRC) by funneling weapons, including land mines, and military support into the DRC to the *Forces Armees du Peuple Congolais* (FAPC), an Ituri-based militia group. The government denied the report's claims.

On December 19, the International Court of Justice issued its judgment that the armed activities of the government in the DRC between August 1998 and June 2003 violated the international prohibition against aggressive use of force, international human rights, and international humanitarian law. The ruling determined that the government should pay reparations to the DRC.

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

The law prohibits discrimination based on race, gender, disability, language, or social status; however, the government did not enforce the law in matters of locally or culturally accepted discrimination against women, children, persons with disabilities, or certain ethnic groups. Continued instability in the northern region led to violations of the rights of some Acholi, an ethnic group that comprises a significant part of the population; LRA rebels, although predominantly Acholi themselves, were responsible for the most serious human rights violations.

Women.—Violence against women, including rape, remained common. A 2003 Johns Hopkins University study indicated that one in three women living in surveyed rural areas experienced verbal or physical threats from their partners, and 55 percent sustained physical injuries as a result of domestic abuse. According to a September survey conducted by police and civil society at selected police stations, the police received 30 percent more reports of domestic violence than in the previous year. The law prohibits assault, battery, and rape; however, there were no laws that specifically protected women from spousal abuse. Many law enforcement officials continued to view wife beating as a husband's prerogative and rarely intervened in cases of domestic violence. Women remained more likely to sue for divorce than to file rape or assault charges against their husbands.

A 2003 HRW report concluded that married women were particularly vulnerable to HIV/AIDS infection as a result of forced sex in marriage by husbands with multiple partners or wives. HRW's report identified numerous social and legal obstacles to women's ability to protect themselves against HIV/AIDS infection in abusive relationships.

According to a June 15 UNICEF study on sexual and gender based violence at a northern IDP camp, 469 cases were reported to police in Gulu District in 2004. The study revealed that the three most common forms of gender-based violence were rape, child sexual abuse, and physical assault. Teenage girls, and then young women, were the most common victims of gender-based violence.

The law requires that bride prices be nonrefundable gifts to the parents of the bride. The constitutional amendments approved by parliament did not include a provision to abolish bride prices, despite 2003 recommendations to do so from civil society groups.

Rape is illegal. Although the government arrested, prosecuted, and convicted persons for rape during the year, there were reports that some cases were not investigated. Thousands of women were victims of abduction and rape by rebel forces. There also were reports that members of the UPDF raped women (see section 1.c.).

There was no law against FGM, which was practiced by the Sabinu ethnic group, located in rural Kapchorwa District, and the Pokot ethnic group along the north-eastern border with Kenya. The government, women's groups, and international organizations continued programs to combat the practice through education. These

programs, which received some support from local leaders, emphasized close cooperation with traditional authority figures and peer counseling.

Prostitution was illegal; however, it was common. There were no credible statistics available on the occurrence of prostitution, including child prostitution, during the year.

There were reports of trafficking in women (see section 5, Trafficking).

Sexual harassment is prohibited by law, but was a common problem, and the government did not effectively enforce the law. On February 16, the Makerere University Appointments Board dismissed Dr. Julius C. Enon, a lecturer at the Department of Educational Psychology, after investigations showed that he sexually harassed female students.

Unlike in the previous year, the parliament did not register complaints from women asked for sexual favors during job interviews.

Traditional and widespread societal discrimination against women continued, especially in rural areas. Many customary laws discriminate against women in the areas of adoption, marriage, divorce, and inheritance. Under local customary law in many areas, women can not own or inherit property or retain custody of their children. Traditional divorce law in many areas requires women to meet stricter evidentiary standards than men to prove adultery. Polygyny is legal under both customary and Islamic law. In some ethnic groups, men can "inherit the widows of their deceased brothers. Women did most of the agricultural work but owned only 7 percent of the agricultural land. A May 18 World Bank report estimated that 80 percent of all unpaid workers were women. Employers in the private sector frequently failed to apply the statutory provision that provides women with maternity leave.

There were limits on a married woman's ability to travel abroad with her children (see section 2.d.).

Numerous NGOs sponsored conferences and training programs on women's rights throughout the country. There were several active women's rights groups in the country.

Children.—The government demonstrated a commitment to improving children's welfare. Education received the largest percentage of the national budget. The government did not enforce effectively the Children's Statute, which outlines broad protections for children, due to the large proportion of children in the population (56 percent of the population was under the age of 18), staffing and fiscal constraints on the judiciary, and cultural norms. The law stipulates parents' responsibilities and provides extensive protection for children in a wide variety of areas, including financial support, foster care placement, adoption, determination of parentage, and treatment of children charged with offenses. The law also prohibits children from taking part in any activity likely to injure the child's health, education, or mental, physical, and moral development; however, the government often did not enforce these prohibitions.

The government's Universal Primary Education (UPE) program provided free education through the seventh grade; however, education was not compulsory. The UPE program made education more accessible financially; however, parents still had to pay for school supplies and some school costs. The UPE increased funding for education, provided additional skills training for teachers, and reduced the student to textbook ratio. Strained finances, corruption, instability, infrastructure problems, and inadequate teacher training prevented full implementation. Teachers were rarely paid on time, and many did not show up for work when the government was late in paying their wages. On June 23, teachers conducted a nationwide one-day strike to protest low wages (see section 6.b.). On June 25, the Minister of Finance announced the government would seek additional funds within the budget to supplement teachers' wages. The government, however, did not disburse any additional money by year's end.

According to the 2002 census, the country's primary school enrollment rate was 84 percent for boys and 83 percent for girls. Girls and boys theoretically had equal access to education in the lower grades; however, the proportion of girls in higher grades remained low because families traditionally favored boys when making educational decisions. Boys also were more likely to finish primary school and performed better on examinations for admission into secondary school. The government continued several programs to promote a national plan for the education of girls.

The government provided subsidized health care through a national health care program, and boys and girls had equal access. However, health clinics did not have adequate resources to provide comprehensive care or treatment.

Child abuse remained a serious problem, particularly rape and other sexual abuse of girls known as "defilement." Defilement applied to all cases of sexual contact outside of marriage with girls younger than 18 years of age, regardless of consent or

the age of the perpetrator. The perpetrators of defilement often were family members, neighbors, or teachers. A Save the Children survey of 1400 children conducted during the year found that 46 percent of girls were sexually abused and 20 percent were raped. During the year 985 persons were convicted of defilement, and 3,771 suspects were awaiting trial at year's end. Defilement carried a maximum sentence of death; however, in practice defilement cases often were settled by a payment to the girl's parents.

During the year teachers were arrested and charged for defilement. On July 1, a court in Kampala charged Hussein Kiberu, a primary school teacher, with defiling a 13-year-old student in 2004. On September 6, police arrested Deo Habarurema, a primary school teacher in Kyenjojo district, for defiling a 16-year-old student.

There were no developments in the February 2004 arrest of two traditional healers for reportedly attempting to kill an 11-year-old boy. There were no developments in the 2003 cases of ritual killings of children.

FGM was performed on girls in the Sabinu and Pokot ethnic groups (see section 5, Women).

The legal age for marriage is 18 years, but the marriage of young girls by parental arrangements was common, particularly in rural areas. According to the 2002 census, 36 thousand girls and 29,031 boys entered into marriage below the age of 15.

Child prostitution and trafficking were problems (see section 5, Trafficking).

The law prohibits service in the military by persons under 18 years of age; however, persons below the age of 18 occasionally enlisted, sometimes with the collusion of local officials. During the year there were reports that individuals under the age of 18 enlisted in the army and that others enlisted in local militias. The UPDF denied that it had actively recruited child soldiers, but stated some might have joined through deception or oversight.

Since December 2004 approximately 70 candidates were rejected by UPDF recruitment officers for being underage. Other reports indicated that the UPDF detained some former LRA child combatants for unacceptably long periods, and in some cases used them on intelligence and reconnaissance missions.

There were an estimated two million children who had lost one or both parents. This large number of orphans resulted from wars and other instability, population dislocation, and HIV/AIDS. The government supported two programs to assist children affected by HIV/AIDS and conflict in the north.

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

According to UNICEF estimates, the LRA has abducted approximately 12 thousand children since 2002, and continued to abduct children during the year. The LRA forced children into virtual slavery as laborers, soldiers, guards, and sex slaves. In addition to being beaten, raped, and forced to march until exhausted, abducted children were forced to participate in the killing of other children who attempted to escape. More than 85 percent of LRA captives were made up of children whom the LRA abducted and forced to fight as rebels; most LRA rebels were between the ages of 11 and 16.

During the year the UPDF rescued 563 children from LRA captivity. The UPDF's Child Protection Unit provided treatment to returned abductees upon arrival at military facilities. The unit also escorted former abductees to NGO facilities, which provided assistance and counseling to the children and their families. The government also worked closely with NGOs in the north to facilitate their assistance programs for amnesty seekers and rescued children; however, these programs were primarily financed by donors.

Approximately 35 thousand children, known as "night commuters", traveled from conflict areas or IDP camps each night to urban centers to avoid abduction by the LRA. In September the UN estimated that nearly 9 thousand children commuted nightly into Gulu town and 10,847 commuted in Kitgum. During the year the government cooperated with NGOs to establish shelters for such children in tented dormitories and other semi-permanent structures; in other cases children slept under balconies or on the grounds of schools, churches, and hospitals. Conditions ranged from harsh to adequate. There were credible reports that many displaced girls became involved in prostitution.

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons; however, the law does prohibit trafficking-related offenses. There were reports that persons were trafficked to, from, and within the country. There were no available statistics on the extent of trafficking in persons. The maximum penalty for the procurement of women for purposes of prostitution or detention with sexual intent is 7 years' imprisonment; the maximum penalty for trading in slaves is 10 years' imprisonment.

The national police force is responsible for investigating trafficking-related crimes and maintains a special Child and Family Protection Unit to train local police on women and children's rights. The UPDF is responsible for capturing, disarming, or eliminating LRA combatants who perpetrate human trafficking crimes in the north.

In addition to trafficking related to LRA abductions (see section 1.b.), adults and children were trafficked internally for labor, commercial sexual exploitation, and criminal activities. Trafficking in persons primarily occurred internally: the LRA abducted children to be soldiers, sex slaves, and porters; freelance operators, including taxi drivers and hotel/bar operators, conducted the commercial sex trafficking.

Victims of internal trafficking were subjected to hazardous working conditions, and commercial sex victims were subjected to physical abuse and the risk of contracting sexually transmitted diseases. Victims of commercial sex trafficking in urban centers often came from small rural villages.

The government did not prosecute or fine any victims of trafficking.

The government, through the military and civilian agencies, continued efforts to combat LRA trafficking in persons. The government began "Operation Iron Fist" in 2002 to eradicate the LRA threat and has continued to offer amnesty to former rebels, providing resettlement packages with educational benefits and vocational training. The government also established protected camps garrisoned by the UPDF and LDUs that have helped to prevent abductions (see sections 1.b. and 2.d.).

In March the government began participating in a national working group to combat anti-trafficking. The working group was mandated to support efforts to write a new antitrafficking law, coordinate NGO activities to prevent trafficking, assist victims, and oversee an initiative to conduct pilot prosecutions of trafficking-related crimes.

Persons with Disabilities.—The law provides protection for persons with disabilities from discrimination in employment, education, or the provision of other state services; however, the government did not enforce the law effectively. There was widespread discrimination by society, and employers limited job and educational opportunities for persons with disabilities. There was no statutory requirement that buildings be accessible to persons with disabilities. Five seats in parliament were reserved for representatives of persons with disabilities. Government agencies responsible for protecting the rights of persons with disabilities included the Ministry of State for Disabled Persons and the Ministry of Gender, Labor, and Social Development (MGLSD), but both ministries lacked sufficient funding to undertake or support any significant initiatives.

The law requires that children with disabilities be given necessary special facilities; however, in practice inadequate funding hampered enforcement of this provision.

National/Racial/Ethnic Minorities.—Civil strife in the north and east led to the violation of the rights of members of the Acholi, Langi, and Ateso ethnic groups, who primarily resided in the districts of Gulu, Kitgum, Pader, Lira, Apac, and Soroti. LRA rebels, who themselves largely were Acholi, committed abuses against ethnic Acholi and other ethnic groups. The LRA in particular was implicated in the killing and kidnapping of Acholi and other tribe members (see section 1.g.). During the year the UPDF committed abuses against ethnic Acholi during combat operations against the LRA.

Unlike in the previous year, there were no reports of interethnic violence between the Langi and Acholi ethnic groups.

During the year raids by armed Karamojong warriors in Katakwi, Kotido, and Kapchorwa Districts in the northeast resulted in approximately 200 deaths. The raids reportedly exacerbated ethnic tensions in the northeast (see section 1.a.). The government's mandatory disarmament program for Karamoja, which has caused confrontations between the UPDF and the Karamojong, continued along with negotiations for a Karamojong-led solution. The UPDF and police continued efforts to improve security conditions by arresting cattle rustlers and preventing cross-border incursions.

Other Societal Abuses and Discrimination.—Homosexuals faced widespread discrimination and legal restrictions. It is against the law for homosexuals to engage in sexual acts, based on a legal provision that criminalizes carnal acts against the "order of nature" with a penalty of life imprisonment.

In January the *Anti-Homophobia Africaine*, a local NGO whose aim is to protect and promote the rights of persons with a minority sexual orientation, applied for registration with the NGO Board; the registration had not been granted by year's end.

On July 6, parliament amended Article 31 of the constitution to prohibit homosexual marriage.

Persons with HIV/AIDS continued to face discrimination among local communities and employers. International and local NGOs, in cooperation with the government, sponsored public awareness campaigns that aimed to eliminate the stigma of HIV/AIDS. Counseling and testing for HIV/AIDS was free and available at health centers and local NGOs across the country. Counselors encouraged patients to be tested with their partners and family so that they all received information about living with HIV/AIDS. Persons living with HIV/AIDS formed support groups to promote awareness in their local communities.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers, except many “essential” government employees, including police, army, and management-level officials, to form and to join unions of their choice; however, union membership is restricted by law. On June 24, the Constitutional Court overturned a provision that restricted the number of national trade union associations. Union officials estimated that 500,000 workers were unionized, representing approximately 5 percent of working age citizens. The government failed to enforce the rights of some employees to join unions in newly privatized industries and factories.

The law allows unionization if 51 percent or more of the work force support it and if the proposed union represents at least one thousand employees. These requirements effectively prevented workers in important parts of the private sector from forming unions, especially in the textile, hotel, and construction sectors.

The law does not prohibit antiunion discrimination by employers, and union activists were not protected from retribution for union activities. However, there were no reported incidents of government harassment of union officials. There were reports that several private companies urged workers not to take part in unionization efforts.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, but the government did not protect this right in practice.

The law provides for the right of workers to bargain collectively; however, it was not freely practiced. Some employers ignored the legal requirement to enter into collective bargaining agreements with registered unions.

The law provides for the right to strike; however, the government seldom protected this right, and government policy required labor and management to make “every effort to reconcile labor disputes before resorting to strike action. During the year there were three strikes held by civil servants, teachers, and railway workers protesting unpaid salaries or benefits and one strike held by commercial vehicle operators protesting high taxes.

There were no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5).

Prison officials hired out prisoners to work on private farms and construction sites, where the prisoners often were overworked. Throughout the country, prison officials routinely supplemented their meager wages with cash crops grown by prisoners on the prison grounds (see section 1.c.). Male prisoners performed arduous physical labor while female prisoners produced marketable handicrafts such as woven basketry. Juvenile prisoners performed manual labor, often for 12 hours per day. Compensation, when paid, generally was very low.

Unlike in the previous year, there were no reports that the UPDF forced ethnic Acholi citizens to clear roadways in the war-affected north.

Forced labor by children occurred during the year (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits employers from hiring workers below the age of 18; however, child labor was common, especially in the informal sector. Demographics contributed to the problem of child labor; more than half of the population was under 18 years of age. Many children left school and went into agricultural or domestic work to help meet expenses or perform the work of absent or infirm parents, a situation common throughout the country (see Section 5). The problem was particularly acute among the large orphan population. A joint International Labor Organization and MGLSD survey, released in July, estimated that approximately 2.7 million children were employed as workers.

In urban areas children sold small items on the streets, were involved in the commercial sex industry, worked in shops, or begged for money (see Section 5). Children were also employed in the tea-harvesting sector.

According to statutory orders issued by the Ministry of Labor, children between the ages of 12 and 18 can be employed in jobs that involve light work.

The law prohibits forced and bonded labor by children; however, a lack of resources prevented the government from enforcing this prohibition effectively. There were reports that the UPDF used former LRA child soldiers on reconnaissance and intelligence missions (see section 5).

The LRA often forced abducted children into virtual slavery as guards, laborers, soldiers, and sex slaves (see section 5).

The MGLSD enforced the law on child labor; however, financial constraints limited its efforts. On June 16, the MGLSD launched the Orphans and Vulnerable Children Policy, which extended social services to children working in the worst forms of child labor and other target groups. The government also coordinated its efforts to stop child labor through the National Steering Committee on Child Labor, which included representatives of the MGLSD, the Ministry of Education and Sports, the Ministry of Local Government, the Federation of Uganda Employers, the National Organization of Trade Unions, NGOs, journalists, and academics. The government organized a number of child labor awareness workshops, disseminated printed information, and sponsored radio and television discussions to educate the public on child labor issues. Several human rights NGOs continued programs to remove children from hazardous work situations.

The government also cooperated with the ILO, foreign governments, and NGOs in several initiatives to combat child labor, including the education and reintegration of children into their communities.

e. Acceptable Conditions of Work.—The minimum legal wage was \$3.50 (6 thousand shillings) per month, a rate set in 1984, which did not provide a decent standard of living for a worker and family. The government and the private sector negotiated a new rate in 2003; however, no minimum wage legislation had been passed by year's end.

In industries that employed workers on an hourly basis, the normal workweek was 40 hours. There was no legal maximum workweek; however, employers were supposed to pay a time-and-a-half rate for each additional hour worked beyond a 48-hour workweek. Many industries paid workers incrementally to avoid overtime and circumvent the prohibition on child labor. Many companies employed workers as "casual laborers" or "contract workers" to avoid providing benefits. The law requires employers to give workers a continuous period of 24 hours of rest per work week. Compulsory overtime is not prohibited by law.

The law establishes some occupational health and safety standards. The Workers' Compensation Act provides compensation, based on monthly salaries, for workers injured or killed at work. The MGLSD's Department of Occupational Health was responsible for enforcement of occupational safety regulations. In practice inspections were rare, primarily due to the lack of vehicles and funding for inspection trips. There were fatal accidents at several construction projects. The limited occupational safety regulations under the law did not prevent the dismissal of workers who refused to perform dangerous work; however, strong unions in certain dangerous industries protected such workers.

ZAMBIA

Zambia is a republic governed by a president and a unicameral national assembly with a population of 10.4 million. Movement for Multi-Party Democracy (MMD) candidate Levy Mwanawasa was elected president in 2001, and the MMD won 69 out of 150 elected seats in the National Assembly. Domestic and international observer groups noted general transparency during the voting; however, they cited several irregularities. Opposition parties challenged the election results in court and on February 16, the Supreme Court ruled that the 2001 election was valid. The civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained poor, although there were some improvements in a few areas, serious problems remained. The following human rights problems were reported:

- election irregularities and government corruption
- unlawful killings, torture, beatings, and abuse of criminal suspects and detainees by security forces
- impunity was a problem
- poor and life-threatening prisons conditions

- arbitrary arrests, prolonged detention, and long delays in trials
- infringement on citizens' privacy rights
- restrictions on speech and press freedom
- intimidation of journalists
- forcible dispersal of demonstrations and obstruction of rallies of the political opposition, labor unions, and civil society groups
- violence and discrimination against women
- child abuse, trafficking in persons, and discrimination against persons with disabilities
- limited enforcement of workers' rights and child labor laws

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any political killings; however, security forces committed numerous unlawful killings during the year. The Legal Resources Foundation (LRF), an independent human rights organization that counseled victims' families and represented them in actions against the government, consistently investigated and publicized such incidents.

Police killed several persons during apprehension and in custody. For example, on March 7, police arrested six Drug Enforcement Commission officers and charged them with the murder of a 44-year-old man. Police said that the officers tortured and then killed the man after they detained him for selling drugs in Kafue. The case was ongoing at year's end.

On April 3, police in Kitwe detained Danny Phiri on unnamed charges. On April 4, police told Phiri's father that his son needed to be hospitalized. On April 5, police told the older Phiri that his son had died. Police promised to request an autopsy but never did. Phiri was buried on April 8. Investigators later confirmed that Phiri died in police custody but said they could not determine the cause of death. LRF applied to have the body exhumed in order to conduct an autopsy. A decision on the LRF application was pending at year's end.

On July 14, police in Chipata arrested Joseph Nyirenda for stealing a bicycle and construction materials. The following day Nyirenda's wife and father found him hanging in his cell. Police claimed that Nyirenda committed suicide; however, Nyirenda's wife noted that the chair with which police said he had used to hang himself was from the police reception area. The case was under investigation at year's end.

There were no developments in the following 2004 cases: the killing of Michael Kulunga and David Mwape, the killing of Fridah Mulenga, or the accidental police shooting of Lydia Monga.

Police forcibly dispersed demonstrations during the year; at least one person was killed (see section 2.b.).

The case based on a 2003 complaint filed by the Chirambo family against two police officers, Nyirenda and Machilika, was ongoing at year's end.

There were reports of mob violence, which targeted suspected criminals, witches, or persons suspected of sexual impropriety, resulted in killings during the year. For example, on October 29, a mob in Chingola fatally beat a man who was suspected of stabbing another man to death. On November 25, a mob in Kitwe beat a man to death and attacked a woman with an axe for practicing witchcraft. The elderly are often suspected of witchcraft. On December 8, a group of people in Kasempa beat 81-year-old Mwanauta Kamanga to death after they accused him of being a witch.

Mobs also attacked police officers. On November 30, a group of bus drivers and conductors in Lusaka attacked a police officer after he ordered them to report to the police station because their buses were not in safe condition. On September 27, a mob in Lusaka damaged a police substation and threatened to lynch police officers inside following the suspicious death of a suspect in custody. The officers were forced to abandon the substation, allowing 16 suspects to escape from custody.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, police frequently used excessive force when apprehending, interrogating, and detaining criminal suspects or illegal immigrants, and there were reports of torture. Authorities detained, interrogated, and physically abused family members or associates of criminal suspects in attempts to identify or locate suspects (see section 1.f.). Officers who tortured, beat, or otherwise

abused suspects generally were not disciplined or arrested for such acts, although local human rights organizations, particularly LRF, were active in pressing for such action.

Langton Sakala reported that Lusaka police beat and tortured him from December 21, 2004 to January 19, following his detention on charges of theft. Sakala said that police beat him with a baton and put him on the "kempelwa," to force a confession. The *kempelwa* involves using a rope or handcuffs to bind a suspect by the hands and feet, or sometimes just the feet, and hanging the suspect upside down from a rod and beating him. Sakala filed a civil suit against the officers, which was still pending at year's end.

In December 2004 police officers accused Terry Bilumba of taking part in an armed robbery and brought him to the Livingstone Central Police Station where they beat him. After releasing Bilumba, police detained him for questioning again on January 8. Bilumba was later released without charges.

On June 7, police arrested Ben Chola on firearms charges. Chola said that police beat him repeatedly with a steel rod and suspended him in the *kempelwa* until his father paid approximately \$25 (100 thousand kwacha) for his unconditional release on June 16.

The January 2004 case of torture of Nkumbwa Daniel Jones was referred to the Police Public Complaints Authority (PPCA) and was under investigation at year's end.

In the case of the March 2004 beating and paralysis of Aliyele Sakala, he has reportedly moved to another village and LRF has not been able to pursue his case.

At year's end there was no new information in the case of the March 2004 beating of Adam Simukwai.

Victims of state-sponsored torture following the 1997 coup attempt were still awaiting compensation recommended in 2000 by a special commission appointed to investigate allegations of torture. The civil case against former Drug Enforcement Commission Deputy Commissioner Teddy Nondo, former Commissioner of Police Emmanuel Lukonde, and Attorney General George Kunda was still pending at year's end; Commissioner Lukonde died during the year.

Unlike in previous years, there were no reports that traditional rulers used corporal punishment. During the year the 2004 case against Chief Mushili for assaulting and extorting from his subjects was referred for mediation, which subsequently failed. The case was back in court and ongoing at year's end.

According to human rights groups, police occasionally demanded sex from female detainees as a condition for their release. There also were reports that police officers raped women. For example, on April 7, police beat and then raped a woman in Kalomo. When the woman's husband went to the local police station to file a complaint, the station inspector refused to take action. The husband complained to LRF who referred him to the Livingstone Criminal Investigations Officer. The police Victim Support Unit (VSU) was investigating the complaint at year's end.

There were no further developments in the 2003 cases of police beatings or rapes.

On November 25, mobs in Lusaka and Kanyama Township attempted to destroy buildings belonging to the Universal Church of the Kingdom of God because they believed that the church was engaging in satanic practices.

Prison and Detention Center Conditions.—Prison conditions were harsh and life threatening. The country's prisons, which were built to hold 5,500 inmates, held nearly 15 thousand prisoners; inmates in Lusaka Central Prison were forced to sleep sitting upright. During the year the magistrates' strike delayed court proceedings, exacerbating prison overcrowding (see section 1.e.). At one point during the year, Lusaka Central Prison, designed to accommodate 240 prisoners, held 1,278 inmates. In Mazabuka Prison officials revealed that 260 prisoners were being housed in a cell designed to hold 60 persons. Severe overcrowding, poor sanitation, inadequate medical facilities, meager food supplies, and lack of potable water resulted in serious outbreaks of disease, including dysentery, cholera, and tuberculosis. Prisoners routinely complained that authorities denied them access to medical care, as provided for by law. Failure to remove or quarantine sick prisoners from the general population resulted in the spread of airborne illnesses such as tuberculosis, leading to prisoner deaths. Most prisons did not have infirmaries to isolate sick or contagious inmates. Drugs to combat tuberculosis were available in prisons but supply was erratic. Patients who received treatment for tuberculosis were frequently housed with inmates who were not being treated, leading to re-infection.

The HIV/AIDS prevalence rate in prisons was estimated at 17 percent. In 2004, 449 inmates died of AIDS or AIDS-related illnesses. In addition, 114 prison officers, of a total staff of 1,800, died of the disease, placing added strain on the prison system. Anti-retroviral treatment (ART) was available to some prisoners with HIV/AIDS; however, poor nutrition often rendered ART ineffective.

Juveniles often were not held separately from adults. Infants and young children of incarcerated women were held along with their mothers. Pretrial detainees were not held separately from convicted prisoners. Prisoners with mental disabilities were not held separately from the general prison population.

The government permitted prison visits by both domestic and international nongovernmental organizations (NGOs) and by resident foreign diplomats during the year. Provincial human rights committees periodically inspected prison conditions; LRF continued its prison visits during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, the government did not respect these prohibitions. Criminal suspects were arrested on the basis of insubstantial evidence or uncorroborated accusations. For instance, in February Lemon Mulambo filed a civil suit against police officers who arrested him in 2003 on charges that he murdered Kelvin Mudenda. According to the complaint, officers arrested Mulambo after a villager reported that he had dreamed that Mulambo hired two people to kill Mudenda. Mulambo and the two men he was alleged to have hired to kill Mudenda were acquitted of the charges in 2004 after a trial court found that the government had presented insufficient evidence in the case. Mulambo's civil suit was pending at year's end.

Role of the Police and Security Apparatus.—The police, divided into regular and paramilitary units under the Ministry of Home Affairs, have primary responsibility for maintaining law and order. The Zambia Security Intelligence Service, under the Office of the president, is responsible for intelligence and internal security. Police posts in towns throughout the country reported to one of nine provincial police stations, which in turn reported to the central police command in Lusaka. Although the government has identified a need for 27 thousand police officers, only 13 thousand were employed.

Lack of professionalism, investigatory skills, and discipline in the police force remained serious problems. Human rights training during the year raised police awareness of human rights; however, the use of excessive force continued, and corruption was widespread. Low salaries and substandard government housing exacerbated police corruption, as did poor working conditions.

Police used their authority to extort money, released prisoners in exchange for bribes, or required "document processing fees" or "gas money" to commence investigations. For example, prisoners in Mumbwa Central Prison complained that Zambia Wildlife Authority officers and police in Lusaka promised them work at a lodge. Instead authorities brought the job seekers to large commercial farms and then threatened to arrest them for trespassing unless they paid a fine. Police arrested those who were unwilling or unable to pay the fine and then charged the unwitting farm owners for police assistance in removing the trespassers.

Police stations frequently became "debt collection centers," where police officers acting on unofficial complaints detained debtors without charge until they paid the complainants; in return, the police received a percentage of the payments. Officers found engaging in this practice reportedly were disciplined. There were no developments in the 2004 case of police corruption reported to the Anti-Corruption Commission (ACC) by Bernard Mulendema.

The government took some steps to address these problems. The PPCA received 367 complaints of police misconduct. According to its procedures, the PPCA meets in each of the country's nine provinces at least once a year to review complaints that cannot be resolved through internal police channels. Due to technical issues, the PPCA convened only once during the year, in April, when it reviewed approximately 50 cases from Lusaka Province. Following the April session, the PPCA directed the police inspector general (IG) to dismiss three officers; the IG had not responded to the PPCA directions at year's end.

Some police officers arrested on corruption or abuse charges were convicted and sentenced to prison, but most went unpunished unless an NGO took up the case on behalf of the victim. Punishment, if any, usually came years after the abuse was committed, and the accused officers often remained on duty in the interim.

Arrest and Detention.—The law requires that authorities obtain a warrant before arresting a person for some offenses, but other offenses had no such requirement. Suspects being arrested were informed of their rights, including the immediate right to an attorney. The law requires that suspects appear before a magistrate within 24 hours of their arrest; however, detainees were frequently held for longer periods because prosecutors routinely required that officers collect additional evidence before presenting cases to a magistrate. There was a functioning bail system; however, prisons were overcrowded in part because of the numerous offenses for which bail is not granted, including treason, murder, aggravated robbery, and violations of nar-

otics laws. Parliament repealed a law that made motor vehicle theft a nonbailable offense.

Indigent detainees and defendants rarely had the means to post bail. The government's legal aid office, which employed only 14 attorneys, was responsible for providing representation for indigent detainees and defendants in criminal or civil cases, but in practice, few received assistance. For example, on July 22, President Mwanawasa ordered police to arrest, detain, and prosecute Patriotic Front (PF) President Michael Sata for inciting riots at the Konkola Copper Mines. Police summoned Sata to the Lusaka Central Police station for questioning on July 23 but released him the same day. The following day, the president ordered more than 40 armed police officers to arrest Sata at his home; he remained in custody for 15 days before the High Court granted him bail. The government appealed the High Court's decision, claiming that Sata's offense was "unbailable." The inspector general of police, Nzunga Siakalima, was later dismissed for allowing Sata to be released on July 23, contrary to the president's order that he be held in custody. The government's appeal was still pending at year's end.

Police frequently arrested individuals as a pretext for stealing their property or extorting bribes; however, there were fewer reports of such incidents than in previous years.

Police arbitrarily arrested family members of criminal suspects (see section 1.f.).

Authorities detained at least four journalists during the year (see section 2.a.).

Unlike in the previous year, the government did not threaten to arrest the members of the Oasis Forum, which it claimed was unregistered (see section 2.b.).

There were no reports of political detainees.

Pretrial detention often was prolonged. In criminal cases detainees must be charged and brought before a magistrate within 24 hours; in practice police held most detainees for more than 1 month from the time of detention to the first appearance before a magistrate. In some cases defendants were awaiting trial for as long as 2 to 3 years. Approximately one-third of the 14,427 people incarcerated in prisons had not yet received a trial in their case and had not been convicted of a crime. On May 10, high court judge Christopher Mushabati publicly expressed concern that suspects arrested in early 2002 had not yet appeared before the High Court for trial. Broad rules of procedure give wide latitude to prosecutors and defense attorneys to request delays or adjournments. Other factors contributing to long delays were inadequate resources, inefficiency, lack of trained personnel and labor unrest (see section 1.e.). Attorneys and family members were permitted access to pretrial detainees.

In February 2004 police in the Lusaka suburb of Chilenje arrested five men on suspicion of aggravated robbery. The suspects were tried and acquitted of the charges. In March police released Moses Banda from detention after holding him for two years without trial on charges of possession of stolen property. Banda had appeared in court on several occasions but was always returned to jail after being informed that prosecutors were not ready to proceed because they could not locate his court record. On March 22, the High Court in Kabwe acquitted Peter Chasanga on murder charges after he had spent more than seven years in custody. In 1998 police in Kasama had arrested Chasanga and four other men for a 1997 murder. Three of the men accused with Chasanga died in custody; charges against the other man were dropped.

There were no developments in the government's appeal of the May 2004 Lusaka High Court ruling that the government was liable for holding Crispin Samulula in custody from 1996 to 2001 without trial.

There were no developments in the lawsuit brought by United Party for National Development (UPND) treasurer general Tiens Kahenya against the government for damages resulting from his imprisonment from December 2002 to April 2003.

During the year the government took some steps to reduce the length of pretrial detentions. On July 23, the government opened a new court complex near Lusaka Central Prison to accelerate the judicial process.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and while the courts continued to act independently and at times made judgments and rulings critical of the government, the judicial system was hampered by inefficiency, corruption, and the lack of resources. Government officials used their offices to circumvent standard police and judicial procedures.

A February 16 Supreme Court ruling that upheld the 2001 presidential elections was highly critical of the performance of the Electoral Commission of Zambia (ECZ) (see section 3).

The Supreme Court has appellate jurisdiction for all legal and constitutional disputes. The high court, which held regular sessions in all nine provincial capitals, has authority to hear criminal and civil cases and appeals from lower courts. Mag-

istrate courts have original jurisdiction in some criminal and civil cases; local, or customary, courts handled most civil and petty criminal cases in rural areas.

Trial Procedures.—Trials in magistrate courts were public, but the legal system does not provide for jury trials. Defendants had the opportunity to confront their accusers and present witnesses; however, many defendants lacked the resources to retain a lawyer, and the limited resources of the government's legal aid department meant that legal aid was unavailable for many citizens. Defendants and their attorneys have the right to access government-held evidence related to their cases. Defendants enjoy a presumption of innocence and have the right to appeal.

Courts were congested, and there were significant delays in trials while the accused remained in custody (see section 1.d.). In many cases, at least six months elapsed before a magistrate committed the defendant to the High Court for trial. Following committal, preparation of the magistrate court record for transmittal to the High Court took months, or, in some cases, as long as a year. Once a case reached the High Court for trial, court proceedings lasted an average of six months.

Poor working conditions caused many magistrates to leave their jobs. Fully qualified attorneys filled approximately 19 magistrate positions during the year, down from 30 in 2004; lay magistrates filled the rest. During the year magistrates frequently did not appear at court as scheduled; reports indicated that the no-shows were designed to pressure the government for better conditions of service for magistrates. On March 18, magistrates went on strike for three weeks to demand higher salaries and better working conditions. The strike was settled after the government agreed to provide the magistrates with a raise in pay for an undisclosed amount, rent-free housing, and low interest car loans.

Local courts employ the principles of customary law, which vary widely throughout the country. Lawyers are barred from participating in proceedings in such courts, and there are few formal rules of procedure. Presiding judges, who usually were prominent local citizens, have substantial power to invoke customary law, render judgments regarding marriages, divorces, inheritances, and other civil proceedings, and rule on minor criminal matters. Judgments often were not in accordance with the penal code; for example, they tended to discriminate against women in matters of inheritance (see section 5).

Political Prisoners.—There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, the government frequently did not respect these prohibitions in practice. The law requires a search or arrest warrant before police may enter a home, except during a state of emergency. Police routinely ignored this requirement and often arrested alleged criminals at their homes without an arrest warrant.

The law grants the Drug Enforcement Commission and the ZSIS authority to wiretap telephones for probable cause.

Authorities sometimes detained, interrogated, and physically abused family members of criminal suspects to obtain their cooperation in identifying or locating suspects. For example, on April 26, police in Livingstone accused Catherine Mubiana of harboring her brother, an escaped fugitive, and beat and whipped her as they demanded that she reveal her brother's whereabouts. Police then forcibly took Mubiana to the homes of her relatives in the neighborhood as they searched for her brother, before taking her to the Livingstone jail. She was later released without charges. LRF was preparing to file a civil suit on Mubiana's behalf at year's end.

On July 2, police detained Theresa Chinama after they were unable to locate her husband, Andrew Chinama, who owed another man \$90 (360 thousand kwacha). Police told Chinama that they would not release his wife until he acknowledged in writing that he was liable for the debt.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government at times restricted these rights in practice. The law includes provisions that may be interpreted broadly to restrict these freedoms. Journalists in the government-owned media generally practiced self-censorship; the private print media routinely criticized the government.

A number of privately owned newspapers questioned government actions and policies, and these generally circulated without government interference.

The government-controlled *Times of Zambia* and *Zambia Daily Mail* were two of the most widely circulated newspapers.

In addition to the government-controlled radio station, there were numerous private radio stations. A Catholic radio network, Radio Yatsani, gained permission to broadcast two 30-minute programs live from Vatican Radio twice per day. The Min-

istry of Information had previously prohibited the station from broadcasting live programs, arguing that to do so would be in violation of the station's license. The station also used excerpts from the BBC for news. The 2004 Ministry of Information and Broadcasting Services (MIBS) order that Breeze FM, a commercial radio station in Chipata, stop relaying BBC broadcasts was still in effect at year's end. MIBS claimed that Breeze FM's license permitted local and regional broadcasts only. The station, however, remained a partner station of the BBC and was allowed to re-broadcast a selection of BBC programs.

The government-owned ZNBC was the principal local-content television station, and opposition political parties and civil society groups complained that government control of the station and of two major newspapers limited their access to mass communication.

Several private television stations, including foreign media, broadcast locally. A new station, MUVI TV, broadcast local news three times a day. Multichoice, a telecommunications company based in South Africa, and CASAT provided satellite and analog wireless subscribers with television services. Broadcasts of foreign news sources were available in the country.

On June 15, cadres suspected to be acting on orders from the ruling MMD party attacked vendors of the independent newspaper *The Post*. The *Post* is consistently critical of the president and his administration. At the time of the attacks, the newspaper had been reporting some government leaders' attempts to shield former health permanent secretary, Dr. Kashiwa Bulaya, from prosecution on corruption charges (see section 3).

The police harassed and arrested journalists during the year. For example, on June 14, police detained Anthony Mukwita, a freelance journalist and host of a public phone-in radio program. Police questioned Mukwita regarding a fax from an unidentified listener critical of President Mwanawasa that Mukwita read on the air June 10. On June 22, police served Mukwita with a "warn and caution" statement, informing him that he was under investigation for sedition. Mukwita was released pending the outcome of the investigation. Police also summoned and interrogated Evangelical Fellowship of Zambia executive director, Bishop Paul Mususu, who was Mukwita's guest on the program at the time he read the fax. Radio Phoenix Managing Director, Elizabeth Pemba, terminated Mukwita's contract soon after police visited the radio station, claiming that he had exaggerated the episode. Following the termination of Mukwita's contract with Radio Phoenix, The Media Institute of Southern Africa (MISA) Zambia Chapter hired him to host the program *Face the Media*, which MISA broadcasts on Radio Phoenix. Mukwita was still hosting the program at year's end.

On July 21, police and MMD officials detained freelance journalist Owen Miyanza for selling politically themed videotapes critical of the president at the MMD national convention. Police released Miyanza after holding him for one night but did not return the confiscated videotapes.

On July 25, police summoned three journalists from *The Post* to Lusaka Central Police station as part of their investigation of opposition leader Michael Sata (see section 1.d.). The journalists were released after questioning, but *The Post* protested that the police summons constituted intimidation of journalists who were merely carrying out their duties.

The government exercised considerable influence over the government-owned media, including reviewing articles prior to publication and censoring individuals responsible for published articles or programs deemed offensive by the government. As a result journalists in the government-owned media generally practiced self-censorship, and the government-owned media continued to be supportive of the government.

On August 11, parliament security officials prevented *Post* journalist McDonald Chipenzi from entering parliament to cover deliberations pertaining to the selection of the chairperson of the ECZ. The security officers stated that they were acting on directives from above. Later National Assembly chief research officer, Chikomeni Banda, explained that parliament was not happy with Chipenzi's reporting in *The Post*, which had been critical of a potential appointee to the ECZ position.

In response to headlines and stories alleging official corruption, those accused and others brought libel suits against the media. During the year the libel suit brought by Deputy Minister Geoffrey Samukonga against the *Zambia Daily Mail* went to trial. The court ruled in Samukonga's favor and ordered the *Mail* to run a front-page apology to Samukonga in addition to paying \$2,500 (10 million Kwacha) in legal fees after the newspaper failed to produce any witnesses at trial. Samukonga was later reported to have assaulted journalists from ZNBC, the *Zambia Daily Mail*, and *Times of Zambia* over their alleged biased and negative reporting. The journalists filed criminal charges against Samukonga. President Mwanawasa intervened

and asked that the case be dropped, promising to take disciplinary action against the deputy minister. On November 4, Samukonga was dismissed from his post.

During the year there were defamation suits filed by political leaders. On November 9, police in Lusaka arrested Fred M'membe, editor of *The Post*, and charged him with defamation of the president. The charges stemmed from an editorial published in *The Post* that questioned the president's honesty and integrity. M'membe was released on bail pending prosecution of the case. On June 29, police had detained and issued a formal warning to M'membe in relation to articles and opinions published in *The Post* that accused the president of interfering in a closely watched corruption prosecution.

During the year there were no developments in Michael Sata's and George Chulumanda's appeals of court orders for defamation damages.

The law provides that investigative tribunals can call as witnesses, journalists and media managers who print allegations of parliamentary misconduct. Failure to cooperate with a tribunal can result in charges of contempt punishable by up to six months in jail. The media criticized these provisions as clear infringements of freedom of the press and as a means for parliamentarians to bypass the court system.

There were no government restrictions on the Internet or academic freedom. Although the law gives the University Council a mandate to address faculty concerns, the Minister of Education was empowered to appoint the members of the Council; some academics criticized this provision as an infringement of academic freedom.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, the government interfered with this right in practice.

During the year government officials, opposition leaders, and NGOs continued to criticize the Public Order Act (POA), which requires rally organizers to notify police seven days in advance of a rally. Although the POA does not require rally organizers to obtain a permit, police incorrectly warned prospective demonstrators they would be violating the law if they assembled without one.

In March police erroneously insisted that the opposition PF party required a permit to hold a demonstration at the Canadian High Commission. The PF members wanted to protest an incident in which they alleged that Canadian-owned Mopani Copper Mine prevented PF members from voting in a by-election won by the ruling MMD. Police said that they could not issue a permit because they did not have sufficient personnel to monitor the demonstration, and the demonstration did not take place. However, the police inspector general did grant the Oasis Forum permission to organize demonstrations in support of constitutional reform. On November 1, the peaceful demonstrations, which protested the government's position on the constitution, took place in Lusaka without police interference. However, also on November 1, police in Mongu prevented people from demonstrating on the constitutional issue at the city's community hall and protesters were diverted to the grounds of the Catholic Church. There were also reports that government authorities threatened civil servants with dismissal if they participated in the protests and that a state intelligence officer asked several demonstrators to provide their names. A December 10 demonstration that the Oasis Forum organized in Lusaka to demand constitutional reform was carried out peacefully and without police or government interference.

In December 2004 police briefly detained and released on bond 11 opposition members of parliament (MPs), four journalists, and 53 other persons demonstrating against the government's method and timing of adopting a new constitution; police charged that the organizers had failed to adhere to POA notification requirements. The government dropped the case against the four journalists and the minister of information apologized for the police abuse of at least one journalist, who was injured in the arrest. The journalists filed civil claims against the police for wrongful detention. The case had not been heard in court at year's end. The remaining defendants filed an appeal with the High Court challenging the constitutionality of the POA. The High Court had not ruled on the appeal at year's end.

During the year police forcibly dispersed demonstrations, which resulted in one death. On January 13, a police officer in Samfya shot and killed Kapya Bombeck in the belief that he was part of a group of demonstrators protesting police involvement in the deaths of two fishermen. The local hospital refused to perform an autopsy, allegedly on instructions from provincial police headquarters. Disciplinary action was taken against the police officer.

The results of the investigation into the September 2004 shooting death of a high school student during a demonstration were not released by year's end.

Unlike in the previous year, there were no reports that police failed to intervene during violent demonstrations.

Freedom of Association.—The law provides for freedom of association, but the government placed some limits on this right in practice. All organizations must formally apply for registration to the registrar of societies. In most cases, authorities routinely approved these applications.

In November 2004 then Home Affairs Minister Ronnie Shikapwasha ordered the immediate deregistration of the Southern African Center for Constructive Resolution of Disputes, alleging that the NGO had conducted “activities which are inimical and a danger to state security.” In December 2004 the Lusaka High Court overturned Shikapwasha’s decision. The government announced that it would appeal the decision to the Supreme Court, but had not done so at year’s end.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. Although the constitution declared the country a Christian nation, in practice the government generally respected the right of all faiths to worship freely.

The government required the registration of religious groups and approved all applications for registration from religious groups without discrimination.

On November 29, Ministry of Home Affairs’ permanent secretary Peter Mumba announced that the government would deregister the Universal Church of the Kingdom of God, in effect banning church operations, while it investigated allegations that the church had engaged in satanic practices. The government deregistration of the Church followed rioting in Lusaka that damaged church structures (see section 1.c.). On December 29, High Court judge Tamula Kakusa issued a ruling that allowed the church to resume operations pending judicial review of the deregistration.

Societal Abuses and Discrimination.—There were no reports of anti-Semitic acts. There were approximately 80 persons in the Jewish community.

For a more detailed discussion, see the 2005 *International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, at times the government limited them in practice. Home Affairs Deputy Minister Justin Chilfuya announced in March that the use of police roadblocks would be reduced as a result of complaints of widespread abuse. Although the roadblocks were reduced in number, police continued to man numerous roadblocks around the country to control criminal activity, enforce customs and immigration regulations, check drivers’ licenses, and inspect vehicles for safety compliance. Police at times extorted money and goods from motorists at these roadblocks.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The law does not provide for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; however, the government has established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 UN convention and the 1967 protocol.

According to the UNHCR, no Congolese or Rwandan refugees were deported during the year.

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, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

In July the Constitutional Review Commission (CRC) released its interim draft constitution and began a 90-day period for public comment, which was extended to enable people in outlying areas to access and review the interim report and draft constitution. In October the government announced that it did not accept a number of key recommendations contained in the CRC draft constitution, including a provision that would require the president to be elected by a majority vote. Members of civil society and the political opposition criticized the CRC and demanded that it transmit its recommendations directly to a constituent assembly rather than to the president. These groups were concerned that the government was attempting to delay constitutional reform until after the 2006 presidential election. The CRC concluded its final draft of the constitution on December 31; however, the draft had not been made available to the public by year’s end.

Elections and Political Participation.—In 2001 11 political parties contested the presidential elections. Levy Mwanawasa, the MMD presidential candidate, was elected with 29 percent of the vote; runner-up Anderson Mazoka, the UPND candidate, won 27 percent of the vote. The remaining 44 percent was divided among the other nine opposition candidates. The MMD won 69 out of 150 elected parliamentary seats, leaving it slightly short of a majority; the remaining 81 elected seats were divided among several opposition parties and 1 independent member. Although noting general transparency during the voting, domestic and international observer groups and opposition parties cited irregularities in the registration process, problems in the tabulation of the election results, significant vote rigging, and the MMD's use of government resources during campaigns, including the government-owned media.

Following a challenge of the election results, on February 16, the Supreme Court ruled that the 2001 election was valid. In its 300 page decision, the court rejected the attorney general's argument that the constitution did not give the court authority to nullify a presidential election but found that the petitioners had not presented evidence sufficient to overturn the election. Even as it upheld the election, the Court said that the petitioners' evidence had raised serious concerns about the effectiveness of the ECZ, opposition parties' access to the media, and abuse of government resources in election campaigns. The court singled out the ECZ for particularly harsh criticism, accusing its officials of gross negligence and incompetence, but maintained that the ECZ's failures had affected all candidates equally.

In the five by-elections held during the year, there were numerous reports of vote buying, in which the electorate was offered money or goods such as food, clothing, or fertilizers that may have significantly influenced voting patterns. There were also reports that ruling party members used government resources such as transport and other logistics not available to opposition candidates to facilitate their electoral campaigns.

For example, there were reports that in the run-up to the March 4 Kasempa by-election, President Mwanawasa promised that the government would award Kasempa with development projects if the MMD candidate won. In addition, the government ensured the availability of fertilizer in the area and repaired roads to gain favor with voters.

Prior to the March 4 Kankoyo by-election, the government said that it would sell former mine township houses to tenants at very favorable prices. In the days prior to the by-election, government officers from the lands department carried out survey demarcations of the residential plots in preparation for the sale.

Prior to the March 4 Sinjembela by-election, the government began construction on a one-hundred-bed district hospital.

The campaigns leading up to the June 9 by-elections in Copperbelt and Southern provinces were marked by violence, intimidation, and corruption, although the election day itself was calm. Virtually all of the parties that contested the elections were guilty of violence, which was perpetrated mainly by supporters that parties brought in from outside the local areas. The Foundation for Democratic Processes a civil society group, noted that the ruling MMD party took advantage of state resources, intimidated civil servants, used relief assistance to buy votes, housed campaign workers, and interfered with the police.

In August the Electoral Reform Technical Committee (ERTC) published its final report, which recommended changes to election law that addressed many of the problems that hampered the 2001 election; however, it was unlikely that the government would adopt the ERTC recommendations before the 2006 election.

Constitutional amendments barring citizens of partial or full foreign ancestry from the presidency violated the prohibition on discrimination based on place of origin. These amendments also prohibit traditional chiefs from running for political office unless they resign from their chieftainships.

There were 18 women in the 158-seat parliament (150 members were elected, while 8 others were appointed by the president),

There were 2 elected ethnic Asians in the 158-seat parliament.

Government Corruption and Transparency.—The anticorruption campaign the government launched in 2002 continued during the year. Trials of former government officials charged with abuse of office and theft proceeded, but none were completed. The government continued its collaboration with the international community to improve its capacity to investigate and prevent corruption. Parliamentary committees sustained their scrutiny of executive branch operations. The ACC increased its prosecution and public educational activities. On November 10, Mark Chona was removed from his position as Chairman of the Task Force on Corruption. On November 28, Maxwell Nkole, a former investigator with the Rwanda War Crimes Tribunal, was appointed as the new chairman.

Despite these efforts, there remained a widespread public perception that corruption was pervasive in almost all government institutions. Controls over government funds and property were often weak, investigative units often lacked authority and personnel, and officials dealing with the public frequently demanded illicit payments with impunity.

During the year the government continued to investigate and prosecute senior officials allegedly involved in corruption during the administration of former president Chiluba. In November 2004 the government began its prosecution of Chiluba himself in magistrate court. The prosecution was ongoing at year's end.

In 2004 the government also filed corruption charges against several officials of the current administration and former military commanders, including: Lieutenant Generals Wilford Funjika, Sande Kayumba, and Geojago Musengule, who were charged in separate cases of procurement fraud; and Samuel Musonda, the former managing director of a government-owned bank, who was accused of abuse of office. Their trials were ongoing in civilian courts at year's end.

On May 17 the Director of Public Prosecutions (DPP) entered a "no prosecution" motion in the corruption trial of former Ministry of Health official Kashiwa Bulaya. The DPP did not consult the trial court prosecutor before announcing that the case against Bulaya would be dropped and there were allegations that the order came from higher levels of government. On June 14, public outcry led to the reinstatement of charges against Bulaya. His trial was ongoing at year's end.

The law does not provide for public access to government information; however, in practice, the government provided information to media and interested parties on an ad hoc basis. With the exception of information related to the defense and security forces, the government was generally forthcoming with information.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperated with such groups. Unlike in the previous year, there were no reports that the government attempted to deregister organizations.

Some domestic human rights organizations continued to press for a more transparent democratic electoral system. Human rights, development, and election NGOs monitored by-elections during the year and organized civic education activities to improve voter participation and information.

The Permanent Human Rights Commission (PHRC) oversaw human rights committees in all provincial capitals, interceded on behalf of persons whose rights it believed were denied by the government, and spoke on behalf of detainees and prisoners. Independent human rights groups complained that the PHRC was understaffed, underfinanced, and lacked sufficient authority to enforce its recommendations.

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

The law prohibits discrimination based on race, tribe, gender, place of origin, marital status, political opinion, color, or creed; however, violence and discrimination against women and persons with disabilities remained a problem.

Women.—Domestic violence against women was a serious problem, and wife beating and rape were widespread. There is no specific law for domestic violence, and cases of domestic violence were prosecuted under the general assault statutes. Penalties imposed for assault vary, depending on the severity of injury and whether a weapon is used. In 2003 the police VSU recorded 2,841 cases of assault. There were 599 convictions and 71 acquittals in assault cases, but the actual crimes may have taken place in 2002 or earlier. The VSU was responsible for handling problems of domestic assault, wife beating, mistreatment of widows by the deceased husband's relatives, and "property grabbing"; however, in practice, the police often were reluctant to pursue reports of domestic violence and preferred to encourage reconciliation.

The law prohibits rape, and courts generally sentenced rapists to hard labor; there were 642 reported cases of rape in 2003. In 2004 the VSU recorded 289 cases of rape. There were also 1,374 cases of defilement, which includes forced or unforced sex with a minor who has not reached the age of consent. The penal code does not specifically prohibit marital rape and statutes that criminalize rape cannot be practically used to prosecute cases of rape in marriage. To date courts have not tried a case involving marital rape, although the crime was known to be common.

Due to traditional and cultural inhibitions, many cases of violence against women and children remained unreported. The VSU reported that it was difficult to pros-

acute cases of abuse against women because victims often refused to cooperate and there was a lack of forensic equipment needed to develop evidence. The government and NGOs expressed continued concern about violence against women.

Prostitution is illegal, and police routinely arrested street prostitutes for loitering. There were no reliable statistics on the number of prostitutes in the country.

Trafficking in women was a problem (see section 5, Trafficking).

An amendment to the penal code enacted in September prohibits the sexual harassment of children but there were no laws that specifically prohibited sexual harassment of adults, and sexual harassment in the workplace was common.

The law entitles women to equality with men in most areas; however, in practice, women were severely disadvantaged in formal employment and education. Married women who were employed often suffered from discriminatory conditions of service. Women had little independent access to credit facilities; in most cases, they remained dependent on their husbands, who were required to co-sign for loans. As a result few women owned their own homes. Some small financial institutions allowed women to sign independently for loans.

Customary law and practice also place women in a subordinate status with respect to property, inheritance, and marriage, despite constitutional and legal protections. Polygyny is permitted if the first wife agrees to it at the time of her wedding. Under the law a deceased man's children equally share 50 percent of an estate; the widow receives 20 percent; the man's parents receive 20 percent; and other relatives receive 10 percent. The widow's share must be divided equally with any other women who can prove a marital relationship with the deceased man, thus granting inheritance rights to other wives, mistresses, and concubines. However, under the traditional customs prevalent in most ethnic groups, all rights to inherit property rest with the deceased man's family. Property grabbing by the relatives of the deceased man remained widespread, although increased training of local court officials may have resulted in a slight decrease in the practice. Many widows were ignorant of the law, and as a result, received little or nothing from the estate. The fines that the law mandates for property grabbing were extremely low. The police, through its VSU, treated instances of property grabbing as criminal offenses.

The common traditional practice of "sexual cleansing," under which a widow had sex with her late husband's relatives as part of a cleansing ritual continued to happen; however, some traditional leaders have banned it. In September an amendment to the penal code makes it illegal for any person to engage in a harmful cultural practice such as sexual cleansing, or to encourage another person to engage in the practice.

NGOs that predominantly represented women's interests were particularly active as lobbying organizations. The NGO Coordinating Committee, an umbrella organization for women's NGOs, was influential in the Oasis Forum, which continued to conduct civic education programs on the issue of constitutional reform.

Children.—The government sought to improve the welfare of children, but scarce resources and ineffective implementation of social programs continued to adversely affect the welfare of children. Several ministries shared responsibility for improving child welfare.

Government policy provided for free basic education for the first nine years of elementary school; however, education was not compulsory, and many children did not attend school. The government has eliminated school fees and mandatory uniforms for primary education students to increase school attendance by children, but many teachers and school administrators still required students purchase uniforms or pay a fee before they would allow them to attend classes. The net enrollment ratio for children of primary school age increased from 66 percent in 1999 to 72 percent by 2004. Inadequate educational facilities and a scarcity of educational materials were problems. Some areas have established community schools; however, these schools had fewer resources than public schools and required contributions from parents.

The number of girls and boys in primary school was approximately equal; however, fewer girls attended secondary school. There were reports that teachers sexually abused female students. The United Nations International Children's Emergency Fund (UNICEF) officials noted that sexual abuse in schools discouraged or prevented many girls from attending classes. The government continued its collaboration with UNICEF on the Program for the Advancement of Girls' Education to work with families and community leaders to keep girls in school and to bring back those that have left.

There were approximately 1 million children under the age of 15 in the country who were orphaned, approximately 750 thousand of these as a result of HIV/AIDS. These children faced greater risks of child abuse, sexual abuse, and child labor. Approximately 75 percent of all households were caring for at least one orphan, and children headed approximately 7 percent of households due to the death of both par-

ents. The government instituted programs to increase public awareness of HIV/AIDS.

Child abuse was a problem. Approximately 1,400 cases of child sexual abuse were reported in 2004, according to police statistics.

Early marriage was a problem. There are no laws against early marriage, and it is permitted under customary law. A few traditional leaders spoke against early marriage and took steps to discourage it, but the majority of traditional leaders condoned the practice. Courts intervened in cases of gross abuse. For example, on August 10, a local court justice in Kasempa, North-Western Province terminated a marriage between a 91-year-old man and a 15-year-old girl. The court ordered the girl to return to school and fined the man \$50 (200 thousand kwacha). The girl's father was fined \$125 (500 thousand kwacha). The girl said that her father forced her into early marriage in return for a \$3.75 (15 thousand kwacha) dowry.

There are laws that criminalize child prostitution; however, the law was not enforced effectively, and child prostitution was widespread. The presence of an estimated 30 thousand street children in Lusaka contributed to the proliferation of street begging and prostitution. The laws against pornography and the sexual exploitation of children under the age of 21 were sporadically enforced.

Trafficking of children for sexual exploitation occurred (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

During the year the government continued implementation of a strategy to provide shelter and protection to street children, including prostitutes. The Ministry of Labor reported that the majority of the five thousand children removed from child labor during the year were street children (see section 6. d).

Trafficking in Persons.—The September amendment to the penal code prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country.

The law prohibits the trafficking of any person for any purpose but it does not define trafficking. Persons convicted of trafficking were subject to a term of imprisonment from 20 years to life. The law had not been used to prosecute a case of trafficking at year's end. Convictions of the crimes of abduction, assault, or seeking to have sex with a minor could be punished with sentences up to life imprisonment with hard labor.

Nevertheless, traffickers were not effectively prosecuted under the law. For example, on April 30, immigration officers arrested a Congolese national as she attempted to leave the country with 16 Congolese children. Although the woman was attempting to take the children out of the country, the law did not specifically prohibit her conduct. The woman eventually pleaded guilty to charges of forgery and obtaining false documents for altering the children's passports and then attempting to use the altered documents at the border. She was fined and returned to the Democratic Republic of the Congo.

The 2004 cases against Bangu Kasenge and Delphine Bakuna Chibwabwa related to trafficking in persons were ongoing at year's end.

The government did not have programs that specifically targeted trafficking, although law enforcement officers attended training courses that raised awareness of the problem. A government interagency committee on human trafficking, chaired by the Ministry of Home Affairs, also met during the year to promote coordination and information sharing among agencies. Government agencies responsible for combating trafficking include the police, immigration authorities, and the ministries of justice, labor, and education.

The government did not collect or maintain data on the extent or nature of trafficking in the country.

Women from the country were trafficked within the country and to other parts of Africa and to Europe, and the country was used as a transit point for regional trafficking of women for prostitution. Traffickers fraudulently obtained Zambian travel documents for their victims before proceeding to other destinations. During the year there were reliable reports that women were trafficked to the country for commercial sex work.

The government did not keep data on trafficking cases and the law did not define the crime of trafficking, making it difficult to profile the typical trafficker. A 2004 survey of service providers, community members, and children located in four cities indicated that traffickers come from a variety of backgrounds and include family members, truck drivers, prostitutes, and business persons. Foreign traffickers were said to have come from Asia, Europe, and North America as well as from countries in the region.

Traffickers often use promises of employment to entice young girls and women to leave their homes and families and then force them into prostitution.

There was no evidence the government authorities facilitated or condoned trafficking or were complicit in trafficking.

Through its social welfare agencies, the government provided counseling, shelter, and protection to victims of child prostitution or refers victims to NGOs that can provide such services. There is no formal screening or referral process. In some cases victims have been placed in protective custody at rehabilitation centers or victim support shelters operated by NGOs.

When government officials understand that individuals are victims of trafficking, they do not treat victims as criminals. In identified cases, victims have not been detained, jailed, deported, or prosecuted for violations of other laws. When trafficking investigations have substantiated allegations, the government has encouraged victims to assist with investigation and prosecution. The government does not have its own means of protecting victims and witnesses. The government can and does arrange for protective custody and security protection through facilities operated by NGOs.

Persons with Disabilities.—The law prohibits discrimination in general but there is no law that specifically prohibits discrimination against persons with physical and mental health disabilities in employment, education, or access to health care. Persons with disabilities faced significant societal discrimination in employment and education. Public buildings, schools and hospitals did not have facilities to accommodate persons with disabilities. The government did not legislate or otherwise mandate accessibility to public buildings and services for persons with disabilities.

Other Societal Abuses and Discrimination.—The law prohibits “carnal knowledge of any person against the order of nature”, but it does not specifically outlaw homosexuality. There was societal discrimination against homosexuals.

The government actively discouraged societal discrimination against those living with HIV/AIDS; however, there was strong societal discrimination against such individuals, and much of the population believed that persons infected with HIV/AIDS should not be allowed to work.

Section 6. Worker Rights

a. The Right of Association.—The law recognizes the right of workers to form and belong to trade unions, and workers exercised these rights in practice. Police officers were not permitted to form unions and remained nonunionized at year’s end. Only 11 percent of the eligible workforce was employed in the formal sector; approximately 60 percent of the formal sector was unionized.

The Industrial and Labor Relations Act (IRA) establishes burdensome registration procedures. For example, no organization could be registered unless it had at least 100 members, and with some exceptions, no trade union could be registered if it claimed to represent a class of employees already represented by an existing trade union. Unions may be deregistered under certain circumstances; however, the IRA provides for notice, reconsideration, and right of appeal to an industrial relations court.

The law prohibits discrimination by employers against union members and organizers; however, the law was not always enforced.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The right to collective bargaining, without government interference, is protected in law and freely practiced.

The law provides for the right to strike, except for those engaged in “essential services”; however, there has not been a legal strike since 1993. In addition to the Zambia Defense Force, the judiciary, the police, the prison service, and the Security Intelligence Service, the law defines “essential services” as any activity relating to the generation, supply, or distribution of electricity; the supply and distribution of water; sewerage; fire departments; and the maintenance of safe and sound conditions in underground working environments such as shafts and machinery in the mining sector. The law permits strikes only after all other legal recourse has been exhausted, a cumbersome process. The law prohibits employers from retribution against employees engaged in legal union activities; workers engaged in illegal strikes did not enjoy this protection.

In July miners at Konkola Copper Mines (KCM), the country’s largest mining company, went on strike demanding a 100 percent pay raise. The strike, which was illegal, lasted more than one week and cost several million dollars in lost production. Striking miners rioted, destroyed company property, and, in at least one instance, detonated explosives. Police arrested four persons in connection with the strike and riots (see section 1.d.), but released them after holding them for 15 days

after the human rights commission and unions protested that they were being held without charge. The miners received a 30 percent increase in pay.

Unlike in the previous year, the government did not respond to striking civil servants with threats of mass firing and arrests, and revocation of rally permits.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, but there were reports that such practices occurred (see section 5). The law authorizes the government to call upon citizens to perform labor in specific instances, such as during national emergencies or disasters. The government also may require citizens to perform labor that was associated with traditional civil or communal obligations, as when a traditional leader or other dignitary called upon all members of a village to assist in preparing for a visit; however, there were no reports of such activities during the year.

d. Prohibition of Child Labor and Minimum Age for Employment.—The Employment of Children and Young Persons Act as amended in 2004 prohibits employment of children in any commercial, agricultural or domestic worksite. The act also prohibits engaging a child in the worst forms of child labor as defined in international conventions. The minimum age for employment is 18 or, with the consent of a parent or guardian, a child may be employed at the age of 16. Nevertheless, child labor was a problem in subsistence agriculture, domestic service, and informal sectors, where children under the age of 16 often were employed, and the law was not enforced. The Labor Commissioner effectively enforced minimum age requirements in the industrial sector where there was little demand for child labor.

Approximately 600 thousand children were in the work force, of whom approximately 87 percent worked in the agricultural sector. During the year children, often orphans who had lost both parents to HIV/AIDS, continued to migrate to urban areas where they lived as street children. In urban areas children commonly engaged in street vending.

Child labor was most concentrated in the hotel and catering industries, construction, farming, transportation, prostitution, and household work.

In 2004 the president signed into law comprehensive child labor legislation that prohibits all forms of slavery and procuring or offering a child for illicit activities, including prostitution. The Ministry of Labor and Social Security (MLSS) is responsible for the implementation and enforcement of child labor laws and regulations. The MLSS can bring charges that provide for penalties ranging from a fine to imprisonment for violations. Labor inspectors may also enter family homesteads and agricultural fields to check for child labor violations.

During the year the government allocated only \$72,500 (300 million kwacha) for MLSS to investigate child labor issues, almost half of what was allocated in 2004. In January, despite budget reductions, the MLSS Child Labor Unit hired 49 new labor officers, inspectors and prosecutors responsible for enforcement of child labor laws. During the year the MLSS continued to recruit labor officers, which it required to be university graduates. The MLSS projected that it would need to hire an additional 27 labor officers in order to be fully staffed.

Because more than 80 percent of child labor in the country occurred in the agricultural sector, most often with the consent of families, the MLSS labor inspectors focused on counseling and educating families that engaged children in child labor and did not refer any cases for prosecution during the year. The MLSS also reported that inadequate resources hampered its enforcement efforts. There were a total of only two vehicles available to labor inspectors and none of the labor inspection field stations had a vehicle making it difficult to conduct inspections in vast rural areas. The MLSS removed five thousand children from child labor. The children, mainly orphans who were found in urban settings, were placed in formal and transitional classes, while others were given vocational skills training (see section 5).

The government continued to provide awareness and training activities for officials charged with enforcing child labor laws. Using funds provided by the International Labor Organization's (ILO) International Program on the Elimination of Child Labor (IPEC), the government began to develop training manuals for labor officers. In addition, ILO-IPEC funds were used to develop data and record keeping systems for use by inspectors and investigators.

e. Acceptable Conditions of Work.—The minimum wage for nonunionized workers, whose wages and conditions of employment were not regulated through collective bargaining, was determined by category of employment. Based on a 48-hour workweek, the legal maximum for nonunionized workers, a general worker earning the minimum wage would receive \$16.50 (83,200 kwacha) per month. The minimum wage did not provide a worker and family with a decent standard of living; most

minimum wage earners supplemented their incomes through second jobs, subsistence farming, or reliance on the extended family.

For unionized workers, wage scales and maximum workweek limits were established through collective bargaining. In practice, almost all unionized workers received salaries considerably higher than the nonunionized minimum wage. The minimum workweek for full-time employment was 40 hours, which was the normal workweek. The law requires two days of annual leave per month of service. The law provides for overtime pay. Employers must pay employees who work more than 48 hours (45 hours in some categories) in one week at a rate of one and a half times their hourly rate. Workers receive double the rate of their hourly pay for work done on a Sunday or public holiday. The government effectively enforced these standards.

The law also regulates minimum health standards in industry, and city and district councils were responsible for enforcement. The inspector of factories under the minister of labor handled factory safety; staffing shortages limited enforcement effectiveness. The law protects the right of workers to remove themselves from work situations that endangered health or safety without jeopardy to their continued employment, but workers did not exercise this right in practice. The government has acted when well-known occupational health problems existed, such as by requiring underground mine workers to receive annual medical examinations.

ZIMBABWE

Zimbabwe, with a population of approximately 12.7 million, is constitutionally a republic, but the government, dominated by President Robert Mugabe and his Zimbabwe African National Union-Patriotic Front (ZANU-PF) since independence, was not freely elected and is authoritarian. The last two national elections, the presidential election in 2002 and the parliamentary elections in March, were not free and fair. There were reports of fraud and improper participation of security forces in counting and tabulation of ballots, restrictions on access to voter education, irregularities in voter registration, limitations on the opposition's ability to campaign, and continued restrictions on speech, press, and assembly. Although the constitution allows for multiple parties, the ruling party and security forces intimidated and committed abuses against opposition parties and their supporters—both perceived and actual—and obstructed their activities. The Movement for Democratic Change (MDC) was the country's principal opposition party; it held 41 of 120 elected parliamentary seats at year's end. The civilian authorities generally maintained control of the security forces, but often used them to control opposition to the ruling party.

The government's human rights record remained very poor. While violence during the election campaign period was lower than in previous elections, the government continued to interfere with campaign activities of the opposition. The ruling party's two-thirds parliamentary majority enabled it to amend the constitution without a referendum or broad consultation. Constitutional amendments passed by parliament and signed by President Mugabe granted the government the ability to restrict exit from the country for reasons of public interest, transferred title to the government to all land reassigned in the land acquisition program, and removed the right to challenge land acquisitions in court. The government's Operation Restore Order campaign to demolish allegedly illegal housing and businesses displaced or destroyed the livelihoods of over 700 thousand persons and further strained the country's poor and depressed economic activity. Many of the displaced lost access to education, treatment for HIV/AIDS, other medical care, and their livelihoods. The economy continued to decline, with hyperinflation and widespread shortages, primarily due to the government's command and control economic policies. The following human rights and societal problems were reported:

- inability of citizens to change their government
- politically motivated killings and kidnappings
- torture, rape, and abuse of persons perceived to be opposition supporters by security forces, government-sanctioned youth militia, and ruling party supporters
- harassment of properly elected local officials from the MDC
- official impunity
- harsh and life-threatening prison conditions
- repeated arbitrary arrest and detention and lengthy pretrial detention
- executive influence and interference in the judiciary

- passing a constitutional amendment that removed the right to judicial appeal in land reform cases
- government distribution of land on a partisan basis, with numerous senior ruling party officials holding multiple farms
- restrictions on freedom of speech, press, academic freedom, peaceful assembly, association, and movement
- widespread government corruption
- harassment of human rights and humanitarian nongovernmental organizations (NGOs) and obstruction of their activities
- violence and discrimination against women
- child labor and prostitution
- discrimination against persons with disabilities and ethnic minorities
- an increase in the number of HIV/AIDS orphans and child-headed households
- harassment and interference with labor organizations critical of government policies and attempts to supplant legitimate labor leaders with hand-picked supporters

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were reports of three political killings during the year by the government or ruling party supporters and one killing by opposition supporters. Individuals targeted for harassment, torture, and killing tended to be active members of the opposition or high-level ZANU–PF members in disfavor with the ruling party. The government routinely used selective violence to achieve its political objectives. Army and police units participated in or provided logistical support to perpetrators of political violence and generally permitted their activities.

On March 3, Gift Chimbandi, a war veteran, was burned to death in a fire at his farm, reportedly as the result of a dispute with other war veterans on the farm, who were suspected of being politically motivated MDC supporters. Veterans of the liberation war, both actual and so-called, led the invasions of commercial farms that began in 2000. The matter was reported to the police, but no official action was taken by year's end.

On April 13, five men assaulted eight settlers of Kimcote Farm and raped four of them, reportedly for being suspected MDC supporters. One of the victims, a 70-year-old grandmother, died from the assault. At year's end officials had taken no action.

On April 28, Elifas Gora and Newman Zifodya, ZANU–PF supporters, beat Ebrahim Mofat to death at Gora's house after a group of war veterans and ZANU–PF supporters abducted and tortured him. Police had arrested Mofat on allegations that he burned houses belonging to ZANU–PF supporters and detained him for three days before releasing him. He was abducted soon after his release. Mofat's family reported the murder and police arrested Gora and Zifodya but later released them on bail. By year's end there were no developments in the case.

On May 2, Godwin Ganda, a Marondera war veteran believed to have spearheaded the first farm occupation in the country in 1998, was found dead near his farm. Prior to the March parliamentary elections, Ganda received multiple threats on his life and told his brother that he was constantly under surveillance and in danger from "political rivals." Witnesses found Ganda bound and strangled in the manner of the murder of another prominent war veteran. There were no developments in the case at year's end.

In mid-September a magistrate sentenced three Lupane war veterans, Seith Themba Jubane, Nicholas Minenhle Ncube, and Patrick Ndlovu, to four years in jail for kidnapping and assaulting MDC member of parliament (MP) David Mpala, who later died of complications from injuries sustained during the attack in 2003.

There were no developments in the following killings from 2004: the January killing of MDC supporter Alexander Chigega; the February killing of Shemi Chimbarara, a farm worker on former MDC MP Roy Bennett's farm; and the March killing of Francis Chinozvina by Minister without Portfolio and ZANU–PF Commissar Elliot Manyika.

There were no further developments in the reported 2003 killings.

Harsh prison conditions and a high incidence of HIV/AIDS were widely acknowledged to have contributed to a large number of deaths in prison; however, some deaths in custody and prison may have been due to abuse by prison officials or guards as well as from other causes (see section 1.c.).

b. Disappearance.—During the year there were multiple reports of politically motivated kidnapping committed by ZANU–PF supporters and one reported kidnapping committed by MDC supporters. Domestic human rights organizations believed that there were disappearances in rural areas that were not reported due to fear of retribution by progovernment factions. Abductees were often tortured. The government often did not investigate abductions and torture of MDC supporters.

On February 11, ZANU–PF supporters abducted MDC candidate for Hurungwe West, Godfrey Gumbo, as well as the district chairperson and organizing secretary. The abductors took them to the Harare police headquarters and beat them severely in the presence of the police. By year's end no official action had been taken.

In early April ZANU–PF youths and war veterans kidnapped and severely beat Wilson Mushonga, the son of the MDC candidate in Mazowe East, and a group of his colleagues. He and his colleagues were hospitalized as a result of the attack. By year's end there was no official action against the attackers.

There were no developments in the 2004 kidnappings of an MDC supporter in Dzivaresekwa, abducted by ZANU–PF youths; ZANU–PF supporter Elias Musavi, abducted by MDC supporters; or Bob Makone, abducted by ZANU–PF youths.

There were no further developments in the reported 2003 abductions.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the constitution prohibits such practices, security forces tortured, raped, and otherwise abused persons. There continued to be reports that police used excessive force in apprehending and detaining criminal suspects. Government supporters continued to torture suspected opposition members and farm laborers.

Human rights groups reported physical and psychological torture perpetrated by government supporters. The Zimbabwe Human Rights NGO Forum reported 135 cases of torture during the first 11 months of the year. National youth training camps were a source of ruling party-directed youth militia forces, which were deployed to harass and intimidate suspected MDC supporters with impunity. There were reports of indoctrination against political opposition (see section 5).

Security forces were involved in incidents of political violence, including instances where soldiers and persons in military uniforms beat civilians, particularly in areas suspected of heavy support for the opposition.

On February 26, unidentified persons abducted and tortured a Guruve man believed to be an MDC supporter. The perpetrators tied his hands, suspended him from a tree by his neck, and beat his face and body with a stick. No official action was taken against the attackers by year's end.

On April 7, MDC MP-elect for Kuwadzana constituency, Nelson Chamisa, was arrested and detained for three days for allegedly inciting violence. Police denied Chamisa food while he was detained. Police officers removed him from the police station in the middle of the night, beat him, and removed him from the police vehicle and forced him to march in leg irons alongside the vehicle. On April 8, Chamisa's attorney officially complained to police officers in charge of the first police station, but there was no official action by year's end.

In December 2004 police arrested Kenny Karidza, the ZANU–PF deputy director of security, on charges of breaching the Official Secrets Act by allegedly selling state secrets to foreign governments. Karidza claimed police detained him at a police station for 14 days in underground cells and tortured him repeatedly. Subsequently, he was blindfolded and moved to a military camp. Karidza claimed he signed a written confession to end the torture. At year's end his trial had not yet begun.

Although there was less violence associated with the March parliamentary elections than in previous elections, throughout the year persons perceived as supporting the opposition, including teachers, civil servants, health workers, and laborers, continued to be singled out for assault or intimidation by ruling party supporters. There were some reports of retribution against MDC supporters after the March elections. In most cases, the national police did not halt acts of political intimidation or violence, arrest the perpetrators, or investigate political crimes.

In April there were multiple reports that ZANU–PF candidates and MPs-elect led attacks on suspected MDC supporters in areas where the MDC garnered the most votes or where the race was close. The attacks included beatings and home burnings. For example, in Karoi ZANU–PF supporters beat MDC supporters and reportedly threatened to intensify attacks once international observers had left the country. There were similar reports from around the country. In all of the cases, police took no action.

In early May several ZANU–PF youths surrounded two schools in Marondera, a rural town near Harare. The youths accused several teachers of supporting the MDC and ordered them to leave their posts. The teachers did not report the incident to the police but requested reassignment by the Education Ministry because they feared for their safety.

There were no developments in the following 2004 cases: the violent looting, beating of farm workers, and occupation of Roy Bennett's farm in Chimanimani; the attack by ZANU-PF supporters on MDC supporters at a colleague's memorial service; the kidnapping and beating of Zimbabwe National Students Union president Philani Zamchiya; attacks by youth militia on MDC supporters in connection with the Zengeza by-elections; the assault on three pregnant women by ZANU-PF supporters; the investigation of security officers in the kidnapping and torture of ZANU-PF youths mistaken as MDC supporters; and arrest of ZANU-PF MPs for inciting or participating in intraparty violence.

There were no developments in the reported 2003 cases of torture and beating. In May during Operation Restore Order (see section 1.f.), hundreds of thousands of persons lost their homes, property, and livelihoods without compensation or provision for alternative accommodation that would allow relocation without destitution.

During the operation security forces intimidated those being relocated and beat many of them.

War veterans and ZANU-PF supporters continued to harass, intimidate, and abuse journalists considered to be sympathetic to the opposition (see section 2.a.).

Security forces repeatedly used force to disperse nonviolent gatherings and demonstrations; security forces also beat participants and demonstrators (see section 2.b.).

Zimbabwe Human Rights NGO Forum reported that at least four politically motivated rapes were committed during the year but noted that the figure likely was grossly underreported due to cultural taboos. The attacks targeted MDC supporters and their families (see section 1.a.).

Unlike in previous years, there were no reports of rape at national youth service training camps (see section 5).

There were no developments in the 2004 rape of a farm worker by a war veteran on Roy Bennett's farm in Chimanimani.

Prison and Detention Center Conditions.—Prison conditions remained harsh and life threatening. The government's 47 prisons were designed for a capacity of 16 thousand prisoners but held approximately 25 thousand at the end of 2003. In December 2004 the Law Society of Zimbabwe conducted a prison inspection at Khami Maximum Prison in Bulawayo that revealed the prison, built to accommodate 650 prisoners, had 1,167 inmates. Based on this review and another prison inspection, the law society concluded that overcrowding increased in 2004 and believed that it probably continued to increase during the year.

In September an official from the Justice, Legal, and Parliamentary Affairs Ministry acknowledged in a report in the state-controlled newspaper *The Herald* that "prisons were in a deplorable state." There were shortages of food, water, electricity, clothing, soap, and other toiletries. During the year there were reports that prisoners at a holding cell in Norton, a town near Harare, went for three days without eating as prison officials stated there was no money to buy food. Poor sanitary conditions persisted, which aggravated outbreaks of cholera, diarrhea, measles, tuberculosis, and HIV/AIDS-related illnesses. One NGO estimated that HIV prevalence among prisoners was as high as 50 percent and reported that AIDS was a major cause of death in detention.

In April a local NGO, Zimbabwe Lawyers for Human Rights, together with Wellington Chibebe, the secretary general of the Zimbabwe Congress of Trade Unions, and Nancy Kachingwe, a member of a regional development NGO, filed a constitutional challenge to the conditions of remand prisons and police holding cells. Chibebe and Kachingwe, who had once been incarcerated at Matapi police station in Mbare and Highlands police station respectively, argued that conditions in the cells amounted to inhuman and degrading treatment, in contravention of the constitution. Despite supporting evidence, in July the supreme court ruled that, although conditions in these cells did not "comply with internationally accepted minimum standards," those two cells could not be used as a general yardstick for all holding cells in the country. Subsequently, the government did not improve conditions.

Juveniles were not held separately from adults. Pretrial detainees generally were held in group cells until their bail hearings. Once charged, if detainees were refused bail, they were held in a separate remand prison.

In May officials transferred Roy Bennett, the MDC MP for Chimanimani who was imprisoned for assaulting a cabinet minister in parliament (see section 1.d.), from a rural minimal security prison to a congested maximum-security prison. He then was held under the same conditions as violent offenders. Officials denied Bennett clean clothing, forcing him to wear filthy, revealing garments.

The law provides that international human rights monitors have the right to visit prisons, but government procedures and requirements made it very difficult to do

so. Permission was required from the commissioner of prisons and the minister of justice, which sometimes was not granted or took a month or longer to obtain. The government granted local NGOs access on a number of occasions during the year. Unlike previous years, there were no reports of any group denied access.

d. Arbitrary Arrest or Detention.—The constitution prohibits arbitrary arrest and detention; however, some laws effectively weakened this prohibition, and security forces arbitrarily arrested and detained persons repeatedly.

Role of the Police and Security Apparatus.—The Zimbabwe Republic Police (ZRP) is responsible for maintaining law and order. Although the ZRP officially is under the authority of the Ministry of Home Affairs, in practice the President's Office controlled some roles and missions, and the ZRP has become increasingly politicized. The Zimbabwe National Army and Air Force under the Defense Ministry are responsible for external security; however, there were cases in which the government called upon them for domestic operations. The Central Intelligence Organization (CIO), under the minister of state for national security in the president's office, is responsible for internal and external security.

The police are centrally controlled, with the command center in Harare. The police are further divided with provincial headquarters overseeing two to three district headquarters, each of which supervises up to seven stations. Decreased resources, both human and material, especially fuel, further reduced police effectiveness during the year. It was difficult for police to remain impartial due to continued politicization within the force's upper echelons, which further lowered their professionalism. There were also reports that untrained or unqualified personnel were placed in the lower levels solely because of their support for ZANU–PF. Corruption increased, due, in large part, to low salaries.

Security forces rarely are held accountable for abuses.

Arrest and Detention.—Arrests require court-issued warrants. The law requires that police inform an arrested person of the charges before taking the individual into custody. Although the law requires a preliminary hearing before a magistrate within 48 hours of an arrest (or 96 hours over a weekend), authorities disregarded the law if a person did not have legal representation. Police typically arrested individuals accused of political crimes on Friday, which permitted legal detention until Monday. In several cases police claimed not to know where they were holding a detained individual, which delayed a hearing on bail release.

Although the Criminal Procedures and Evidence Act substantially reduced the power of magistrates to grant bail without the consent of the attorney general or his agents, in practice a circular issued by the attorney general giving a general authority to grant bail lessened the negative effect of the law. High court judges granted bail independently. In 2004 parliament amended the act to allow the police to hold persons suspected of committing economic crimes for up to four weeks without bail. In April 2004 Finance Minister Christopher Kuruneru was arrested on charges of dealing illegally in foreign currency. Authorities repeatedly deferred or denied his applications for bail. After 18 months in prison, he was granted bail in July, and on September 14, authorities suspended his trial citing his ill health; at year's end the trial had not resumed.

Authorities often did not allow detainees prompt or regular access to their lawyers and often informed lawyers who attempted to visit their clients that detainees were "not available" (see section 1.e.). Family members sometimes were denied access unless accompanied by an attorney. Detainees, particularly those from rural areas without legal representation, sometimes were held incommunicado. Family members and attorneys often could not verify that a person had been detained until the detainee appeared in court.

There was a continuing problem, particularly in rural areas, of victims or witnesses of crimes being detained or charged with a crime after reporting a crime to the police. On March 3, ZANU–PF supporters led by a war veteran known as Kangachepi abducted and tortured MDC parliamentary candidate for Zvimba North, Prince Chibanda, and several members of his campaign team. Several of the abducted persons escaped and reported the incident to the police. Police arrested Kangachepi but also took Chibanda and one of his campaigners, Paidamoyo Muzulu, to the Chinhoyi police station and detained them for the night. Officials had taken no further action by year's end.

No action was taken in the May 2004 case where MDC activists were beaten by ZANU–PF supporters and, subsequently, arrested by police after reporting the attack.

The Official Secrets Act and the Public Order and Security Act (POSA) grant the government a wide range of legal powers and give extensive powers to the police,

the minister of home affairs, and the president to prosecute persons for political and security crimes that are not clearly defined.

Unlike in previous years, there were no reports that police detained farmers in connection with seizing their land despite court orders confirming their title; however, authorities and ZANU–PF supporters continued farm invasions, beatings, and intimidation of farm owners and workers (see section 1.c.).

Police arbitrarily arrested journalists and religious leaders during the year (see sections 2.a. and 2.c.).

Police arrested persons holding meetings and during the forcible dispersal of gatherings (see section 2.b.).

There were numerous reports of political detainees throughout the year, including opposition officials, their supporters, and civil society activists. Most were held for one or two days and released. At year's end there were no political detainees in police custody.

During the year police arrested several MDC MPs (Thokozani Khupe, Nelson Chamisa, Gift Chimankire, and Gilbert Shoko), candidates, and their supporters. Unlike in previous years, police did not arrest ZANU–PF MPs. Former ZANU–PF MP Chris Kuruneri and former MDC MP Roy Bennett remained in detention for part of the year.

There were no developments in the arrest cases reported in 2003 and 2004.

Prolonged pretrial detention remained a problem, and some detainees were incarcerated as long as four years before trial because of a critical shortage of magistrates and court interpreters. One prominent NGO estimated the courts would require at least two years to address the backlog of cases.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary; the judiciary was under intense pressure to conform to government policies, and the government repeatedly refused to abide by judicial decisions.

The law provides for a unitary court system, consisting of headmen's courts, chiefs' courts, magistrates' courts, the high court, and the supreme court. Civil and customary law cases may be heard at all levels of the judiciary, including the supreme court.

Magistrates, who are part of the civil service rather than the judiciary, heard the vast majority of cases. Legal experts said that increasingly defendants in politically sensitive cases were more likely to receive a fair hearing in magistrates' lower courts than in higher courts where justices were more likely to make political decisions. Other judicial officers such as prosecutors and private attorneys also faced political pressure.

The government and police routinely failed to enforce court decisions that went against their interests. Furthermore, the government routinely continued to delay payment of court costs or judgments awarded against it.

Judges are appointed to serve until the age of 65 and may extend their terms until the age of 70 if they remain in good physical and mental health. The constitution provides that they may be removed from the bench only for gross misconduct and that they cannot be discharged or transferred for political reasons.

Justice Benjamin Paradza was charged in 2003 with obstruction of justice for trying to influence a fellow judge in a murder case. Paradza maintained that his consultations with his colleague were common among judges and were not improper. A tribunal of judges from the region was to try Paradza in 2004 to determine if he should be removed as a judge, but the proceedings were postponed when Paradza challenged the appointments of judges. In August the supreme court ruled that the composition of the tribunal was constitutional, but the tribunal was postponed pending a criminal trial, which began in August and was ongoing on year's end.

Trial Procedures.—The constitution provides for the right to a fair trial; however, this right frequently was compromised due to political pressures. Trials were held by judges without juries and were open to the public, except in certain security cases. Every defendant has the right to a lawyer of his choosing, but a local attorney reported that most defendants in magistrates' courts did not have legal representation. In criminal cases an indigent defendant may apply to have the government provide an attorney, but this was rarely granted except in capital cases where the government provided an attorney for all defendants unable to afford one. Litigants in civil cases can request legal assistance from the NGO Legal Resources Foundation or Zimbabwe Lawyers for Human Rights.

Attorneys sometimes were denied access to their clients. For example, on March 31, police arrested dozens of Women of Zimbabwe Arise! (WOZA) members who were holding a prayer vigil on election day. Police beat some women and refused them medical treatment. All the women were held in an open courtyard and denied access to lawyers. Police told them that they could pay a fine and admit guilt or spend

the weekend in jail and be charged under POSA. Fearing further abuse and without the benefit of legal representation, the women paid the fines.

Defendants enjoy a presumption of innocence, the right to present witnesses, and the right to question witnesses against them; however, these rights were not always observed in practice. A prominent local NGO reported there were several cases when the government denied these rights for political motives. Defendants and their attorneys generally had access to government-held evidence relevant to their cases. Some defendants were denied the right to wear civilian attire to court. For example, on May 26, Roy Bennett was forced to appear in court in a prison uniform for a hearing to seek early release from prison. The right to appeal exists in all cases and is automatic in cases in which the death penalty is imposed.

In October 2004 the high court found MDC President Morgan Tsvangirai not guilty of plotting a coup and assassination of President Mugabe. On August 2, the government withdrew its second treason charge against Tsvangirai.

The Zimbabwe Women's Lawyers Association (ZWLA) reported that some magistrates in the country were not aware of some of the contents of the Sexual Offenses Act (SOA), that the law was in effect, or lacked complete understanding of how to apply it. ZWLA's research illustrated that many magistrates continued to make judgments based on old laws.

There was a large volume of rape cases in the Harare victim-friendly courts, special courts created to accommodate children and sexual offense victims, with specially trained magistrates and prosecutors and equipment that allows the victims to testify without being seen. These courts were understaffed, in part because many magistrates left the country seeking to improve their circumstances.

Military courts deal with courts-martial and disciplinary proceedings only for military personnel. Police courts, which can sentence a police officer to confinement in a camp or demotion, handle disciplinary and misconduct cases. Defendants in these courts have the right to appeal to the supreme court.

Political Prisoners.—There was one political prisoner, Roy Bennett, who was sentenced to prison in 2004 for an incident in which he pushed a cabinet minister, an offense that normally would be punished by a fine. He was released on June 28 for good behavior. He was permitted to see his wife for 20 minutes every other week. There were no reports that international humanitarian organizations gained access to him during his imprisonment. There were no other reported political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The constitution prohibits such actions, but the government did not respect these provisions. Security forces searched homes and offices without warrants; the government was believed to monitor some private correspondence and telephones, particularly international communications; and the government forcibly dispersed persons from their homes. In April ZANU–PF supporters reportedly burned the house of Richmond Zitha, the MDC campaign manager in Lupane, a district in Matabeleland where there was government-sponsored violence associated with the parliamentary by-elections in 2004. Zitha reported the arson to the police, who stated they were investigating; however, at year's end there was no further official action.

The law permits the government to monitor and intercept e-mails entering and leaving the country. Security services reportedly continued to monitor e-mail and Internet activity and acquired new technology to do so; however, the extent of monitoring was unknown.

On March 15, suspected ZANU–PF supporters burned an MDC supporter's home after they broke into the house and held an unauthorized meeting.

On May 19, without prior notice the government embarked on Operation Restore Order, in which over 700 thousand persons lost their homes, their means of livelihood, or both. The government's stated reason for the operation was to curb illegal economic activities and crime in slums and illegal settlements, but it made no provision for the affected before beginning the operation. Police, security forces, and some local authorities demolished, or required the victims to demolish, their homes and businesses. Police and security forces beat some residents and market vendors and arrested thousands of informal traders.

Residents were sometimes fined or threatened with fines for not demolishing their houses. Government or security officials also destroyed or confiscated goods and furniture, as well as destroying homes, buildings including HIV/AIDS clinics, orphanages, and places of worship. International NGOs and the UN confirmed that several persons were killed by falling debris during the demolition. Most of the operation's activities occurred in June and July, at the height of the country's winter.

Thousands of those evicted from their homes were forcibly moved to transit camps. The UN special envoy's report stated that five thousand persons were held at Caledonia Camp and two thousand persons at Hopely Camp. Transit camps did

not consistently have basic necessities such as shelter, water, and hygiene facilities, and the government in some instances blocked humanitarian aid to the camps. Reportedly, police instructed the displaced to return to their rural areas; officials also published statements to this effect in the government-sponsored media.

On July 20 and 21, police sent trucks to collect displaced persons staying at churches in Bulawayo and moved them to a transit camp. This occurred despite cooperation from the churches and NGOs in setting up a camp with appropriate facilities and despite earlier agreement by the police not to move anyone forcibly or before the camp was ready. Officials initially allowed the local Red Cross to set up tents for displaced persons at a sports field in Mutare; however, they subsequently forced the Red Cross to dismantle the tents in anticipation of the visit by the UN special envoy. In September the government forcibly dismantled tents that the International Organization for Migration had erected in Headlands to house some of the displaced, further displacing those persons.

In early October police and municipal authorities ordered victims of Operation Restore Order, who had been living in temporary shelters in the Harare suburb of Mbare since the demolition of their homes, to vacate the area by October 14. On October 10, a high court judge ordered a temporary stay of eviction in response to a Zimbabwe Lawyers for Human Rights application. On November 14, in violation of the court order, police moved these persons to Hopely Camp, where living conditions remained poor at year's end.

Also in October police launched Operation No Turning Back against the reestablished informal sector and arrested approximately 14 thousand vendors. Police fined and quickly released most of those arrested.

In addition to severely curtailing employment opportunities in the informal sector, disruptions associated with the displacements also cost many working in the formal sector their employment. Some displaced families joined others in already cramped and inadequate housing. Those who returned to rural areas often faced unemployment, food shortages, and other economic and social stresses. Persons born outside the country or whose parents were born outside the country usually had no rural home to which they could return. Furthermore, lacking ties in their country of origin, they were particularly disadvantaged by the displacements. Such individuals numbered in the thousands.

Many displaced children could not continue to attend school and were unable to take their winter term exams. The Child Protection Working Group (CPWG) of UN Children's Fund (UNICEF) reported that an estimated 300 thousand children lost access to education as a result of displacement. CPWG also reported that some children in transit camps were physically and sexually abused and subjected to forced labor.

The operation disrupted medical care, particularly for HIV/AIDS patients. Those on antiretroviral therapy could no longer obtain these drugs, while patients receiving other medical services, including home-based care, lost access to them. In many cases clinics and day centers for orphans could not locate their former clients. There were reports that one AIDS orphanage was destroyed in the Harare suburb of Hatcliffe. Dismantling urban markets contributed to food insecurity, which exacerbated health problems.

One international NGO estimated that, prior to the operation, at least two million persons were on waiting lists for approved housing, a factor that prompted creation of the informal settlements the government subsequently demolished. Similarly, with 80 percent formal sector unemployment, informal businesses and markets were a major source of income and consumer goods for the majority of the population. In many cases the areas demolished were housing cooperatives that the government had encouraged, where residents were paying for public utilities. In some cases, the government demolished homes for which the owners held title and all necessary permits. At year's end the government had not compensated any owners.

In June the UN secretary general sent special envoy on human settlements issues in Zimbabwe, Anna Tibajuka (head of UN-Habitat) to assess the effects of the operation. The special envoy's report, issued on July 22, criticized the government for beginning the operation without warning, without adequate alternative shelter for those affected or alternative means for them to set up legal businesses, and in a manner that caused human suffering. The report also criticized the government's plan to move the displaced to rural areas violating their right to choose where to live. The report concluded that the operation had been "carried out in an indiscriminate and unjustified manner, with indifference to human suffering," and recommended holding accountable those government officials responsible for the operation. The government dismissed the report as biased. The government blocked the activities of an African Union (AU) envoy sent to survey the situation (see section 5).

In July the government announced a new operation, *Garikai*, (Shona for “live well”) supposedly to provide housing plots for new homes and to set up new vending sites for those who lost homes or businesses; the program proceeded slowly. There were credible reports that civil servants, military, and ruling party supporters were the main beneficiaries of the plots and vending sites. To apply for a housing plot or vending site, applicants had to pay large application and permit fees, prove employment, submit fingerprints, and undergo a police check. The MDC claimed that the government used this vetting process to assure that MDC supporters did not receive any plots or vending sites. A local human rights NGO stated that those who had received new plots did not have any legal title to them and were thus vulnerable to a similar operation in the future.

Some of the approximately 300 remaining white commercial farmers lost their farms as the government continued to list farms for compulsory acquisition. The new constitutional amendment (see section 3) transferred title to the state of all land previously acquired, prohibited court challenges to the acquisitions, and allowed the government to acquire any agricultural land (undefined in the text of the amendment) for any purpose simply by publishing a notice of acquisition.

Land invasions and seizures of property continued and were sometimes violent. In September CIO, police, and ZANU–PF militia invaded farms in Manicaland. On September 21, a gang led by senior CIO official Joseph Chiminya invaded Ashanti Farm in Chipinge and severely beat the farm manager, Allen Warner, and co-owner, David Wilding-Davies. Warner said Chiminya pointed a firearm at him and tried to fire, but the weapon jammed. At year’s end no action had been taken against the attackers. Armed gangs led by security forces and government officials invaded several other farms in Chipinge and Nyazura; they beat and intimidated farm workers. The farm invaders also confiscated farm equipment from at least one farm, despite a court order prohibiting such confiscation. When the farm owner contacted police, the police did not respond. In November in Masvingo Province, police assisted in one case of unlawful seizure of farm equipment, despite a court order against the person confiscating the equipment.

In September and October 2004, the government evicted and burned the homes of thousands of families accused of squatting on farms acquired by the government in Mashonaland West, Mashonaland East, and Manicaland. The government blocked international organizations from assisting these displaced farmers. Many of the affected were displaced again during Operation Restore Order.

There was no action taken, nor was any anticipated, in the reported 2003 or 2004 cases of arbitrary interference with citizens’ homes.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of expression, but legislation limits this freedom in the “interest of defense, public safety, public order, state economic interests, public morality, and public health.” The government restricted this right in practice. The government closed an independent weekly during the year, and three newspapers closed in 2003 and 2004 remained closed. Security forces arbitrarily detained and harassed journalists. Journalists practiced self-censorship.

The government continued to restrict freedom of speech, particularly by independent sources or those making or publicizing comments critical of President Mugabe. Using POSA authority, the government arrested individuals for criticizing Mugabe in public; they were usually fined and released.

The ministry for information and publicity controlled the state-run media. The government controlled two daily newspapers, the *Chronicle* and the *Herald*. The news coverage in these newspapers generally focused on the activities of government officials, negatively portrayed opposition parties and other antigovernment groups, and downplayed events or information that reflected adversely on the government. The government-controlled media generally portrayed President Mugabe and the government favorably. *The Daily Mirror*, a daily semi-independent newspaper owned by ZANU–PF-aligned interests, continued some critical coverage of government policy and ruling party interests and aired the views of the opposition and critics of the government, although its editorial pages were firmly pro-ZANU–PF. There were allegations that the CIO owned or controlled the *Daily Mirror*.

There were two independent major weeklies (the *Independent* and the *Standard*) and a semi-independent weekly (the *Financial Gazette*) that continued to operate despite threats and pressure from the government. The major independent newspapers continued to criticize the government and ruling party; however, most also continued to exercise some self-censorship due to government intimidation and the continuing prospect of prosecution under criminal libel and security laws.

Radio remained the most important medium of public communication, particularly for the majority of the population living in rural areas. The government controlled all domestic radio broadcasting stations through the state-owned Zimbabwe Broadcasting Corporation (ZBC), supervised by the information and publicity ministry. There were credible reports that the deputy minister of information routinely reviewed ZBC news and repeatedly excised reports on the activities of groups and organizations opposed to or critical of the government.

There were independent short-wave radio broadcasts to the country during the year; however, they were not widely heard because few citizens had access to short-wave radios. Voice of America broadcast a program daily on short wave and AM featuring interviews with local opinion makers on a range of topics in English, Shona, and Ndebele. Short Wave Radio Africa broadcast daily from the United Kingdom, using local sources and reporters. On May 31, the station switched to medium-wave since the government had interfered with its short-wave broadcasts, forcing the station to broadcast on multiple frequencies, a financially unsustainable course. Short Wave Radio Africa continued to broadcast 24 hours a day from its Web site. Voice of the People (VOP) broadcasts daily from the Netherlands.

On December 15, police raided the VOP Harare offices, confiscated equipment and files, and arrested three administrative staff. On December 19, the government initially charged the staff in court for operating a broadcast service without a government license and working as journalists without accreditation; however, they were released after the attorney general determined that they were neither journalists nor owners of the station and, therefore, could not be prosecuted. Also on December 19, police arrested VOP executive director John Masuku and held him without charge until December 23, beyond the 48-hour maximum. On December 23, Masuku was charged with operating a radio station without a license and released on bail. His trial was scheduled for January 2006. Police demanded that VOP's trustees surrender; however, at year's end, they remained in hiding.

The government controlled all domestically based television broadcasting stations, and the ZBC owned and operated television broadcasting facilities. ZBC banned most international programs in favor of programs produced locally or by Africans.

International television broadcasts were available freely through private satellite firms, but their expense and the requirement for payment exclusively in foreign currency made them unavailable to most citizens. In June there were reports in the independent media that police questioned satellite subscribers on their sources of foreign currency used to pay the subscriptions.

Journalists were arrested during the year. The government arrested and prosecuted editors and journalists who contributed to published stories critical of government policies or security force operations.

On February 14 and 15, police raided the offices of freelance journalists Angus Shaw, Jan Raath, and Brian Latham. Police confiscated computer equipment and questioned the journalists for several hours on multiple occasions. Initially the journalists fled the country due to fear of arrest; however, Raath and Shaw subsequently returned, while Latham remained out of the country.

On February 25, police in Chimanimani detained Netsai Kembo, a reporter for the local newspaper *The Daily Mirror*, when he attempted to cover President Mugabe's rally. Police accused Kembo of working for the foreign press and questioned him for over two hours before releasing him without charge.

On August 4, police arrested Desmond Kwande, chief photographer of *The Daily Mirror* newspaper, for taking photos of police rounding up destitute individuals in Harare's city center. Kwande claimed to have sought and received permission to take the photos. Police confiscated his press card and camera and released him the same day after he paid a fine admitting guilt.

During the year, police arrested several other journalists and editors covering activities associated with Operation Restore Order and the March parliamentary elections.

There were no new developments in the other reported 2003 and 2004 cases of harassment, abuse, and detention of journalists.

On February 25, the Media and Information Commission (MIC), the government body charged with registering and regulating media outlets and journalists, suspended the operating license of independent regional weekly, *The Weekly Times*, ostensibly for misrepresenting information on its license application. According to the newspaper's editors, the government threatened to ban the paper after its first issue for publishing political and economic stories, claiming the newspaper was licensed only to report on social issues.

On July 13, the MIC announced that it refused an operating license to the semi-independent weekly *Tribune* newspaper, which had ceased publication in June 2004 after the MIC suspended its license. The MIC rejected the *Tribune's* application to

resume publishing because it lacked sufficient capital, and its publisher, Kindness Paradza, (who had been suspended from ZANU–PF in 2004), reportedly told the MIC that he planned to publish the newspaper from home. The *Tribune* had become increasingly critical of the government in the months before it was closed.

On July 19, the MIC also denied an operating license to the independent daily, *The Daily News*. The MIC closed *The Daily News* in 2003 for challenging the Access to Information and Protection of Privacy Act (AIPPA) in court and refusing to apply for a license. The MIC then denied *The Daily News* a license when it applied. In March the supreme court ruled the MIC must consider a new application for a license. The MIC cited its violations of AIPPA as the reason for the new refusal. However, *The Daily News* and its journalists have never been convicted of violating AIPPA. The Associated Newspapers of Zimbabwe, publisher of *The Daily News*, was to appeal its decision on September 22, but the court postponed the hearing indefinitely, and at year's end, the appeal had not been heard. At year's end *The Daily News* only published an online edition from South Africa, with a smaller staff.

On October 3, the board of *The Daily Mirror* suspended Ibbo Mandaza, the newspaper's chief executive and editor. Mandaza immediately filed a suit to overturn the suspension, alleging that his ouster was illegal and engineered by the CIO. On December 6, a court ruled the suspension null and void, but the board immediately issued a new suspension. Mandaza filed a complaint with the court, claiming the board had violated the court order to reinstate him. On December 19, the court issued an order nullifying the re-suspension pending the conclusion of a suit to determine control of the newspaper.

On December 1, the *Financial Gazette* published a story that the MIC had voted to approve an operating license for *The Daily News* and *The Daily News on Sunday* but that the CIO had vetoed the decision. The story cited court papers filed by a former MIC commissioner and other unnamed sources. On December 2, the MIC ordered the *Financial Gazette* to retract its story or face charges under AIPPA. The paper refused to publish the retraction, and at year's end the MIC had taken no additional action.

On December 7, immigration officials confiscated the passport of Trevor Ncube, the owner of the *Independent* and *Standard* newspapers, after he landed in Bulawayo. Ncube successfully pleaded in court for the return of his passport, claiming the government targeted him because of his press connections (see section 2.d.).

The Broadcasting Services Act, which parliament's legal committee found to be unconstitutional but was still in force, gives the minister of information final authority to issue and revoke broadcasting licenses. The act allows for one independent radio broadcaster and one independent television broadcaster but requires them to broadcast with a government-controlled signal carrier. Throughout the year legal rights groups criticized the act for limiting free speech.

In November 2004 the Broadcasting Authority of Zimbabwe (BAZ) invited applications for an independent radio and television station. One television station and four radio stations submitted applications, but BAZ denied all five applications. The television application was denied on the basis that it owed money to the state-owned Zimbabwe Broadcasting Holdings and the four radio stations for reportedly not meeting license requirements. The government did not issue a new call for applications.

On February 16, the government published rules for political parties' access to the media during the campaign prior to the March parliamentary elections. Although MDC received more coverage of its campaign rallies and interviews of its top leaders than in the past, the government-controlled media often rejected MDC advertisements, and coverage of MDC was slight or negative in comparison to that given to ZANU–PF.

POSA makes it an offense to publish or communicate false statements prejudicial to the state. Legal experts have criticized this section saying that it imposes limits on freedom of expression beyond those permitted by the constitution. An extremely broad Official Secrets Act makes it a crime to divulge any information acquired in the course of official duties. In addition, antidefamation laws criminalize libel of both public and private persons.

On January 12, the government dropped criminal defamation charges against *Zimbabwe Independent* editor Iden Wetherell, news editor Vincent Kahiya, and reporters Dumisani Muleya and Itai Dzamera for publishing a story that President Mugabe commandeered an Air Zimbabwe plane for travel on personal business.

On August 3, the trial of Willie Mponda, editor of a community weekly, began. Mponda denied publishing falsehoods in a June 10 article reporting that a Gweru woman committed suicide after police destroyed her business during Operation Restore Order (see section 1.f.). The prosecution stated that police did not destroy the

woman's shops and that no woman in Gweru committed suicide as a result of Operation Restore Order.

Under AIPPA mass media companies and journalists must register for accreditation. Companies must pay burdensome application fees, and journalists were required to pay application fees in US dollars, which were difficult to obtain. In November 2004 parliament amended AIPPA to impose penalties, including jail sentences, on journalists operating without accreditation. Under the new law, which entered into force on June 2, the penalty for publishing falsehoods is as much as 20 years in prison.

In early June police served summons on charges of practicing journalism without accreditation on eight journalists who had worked for *The Daily News*. Police reportedly also attempted to serve summons on other former *The Daily News* journalists but could not locate their residences. Their trial was scheduled for October 12, but it was postponed due to continued police inability to serve all summons. Another *Daily News* journalist, Kelvin Jakachira, was acquitted of similar charges on August 31.

The government regularly denied visas to foreign correspondents during the year. Some of the more than 100 foreign journalists who applied for accreditation to cover the March parliamentary elections were reportedly denied visas. On March 31, the date of the parliamentary elections, two British journalists, Julian Simmonds and Tony Harden of the *Sunday Telegraph*, were arrested for reporting on the elections without accreditation and for overstaying their visas. They were acquitted of the charges on April 14 and 15, respectively. The court granted them bail during the trial, but police defied the court order and continued to hold the journalists until their acquittal.

The government continued to ban the satirical play *Super Patriots and Morons*, about an intolerant dictator.

There were no government restrictions on the Internet; however, the law permits the government to monitor all international e-mail messages entering and leaving the country (see section 1.f.).

The government restricted academic freedom. The University of Zimbabwe Amendment Act and the National Council for Higher Education Act restricts the independence of universities, subjecting them to government influence, and extends the disciplinary powers of the university authorities against staff and students. The higher education and technology ministry controlled the state universities and appointed their chancellors and vice chancellors; the ministry also appoints the deans of faculty, and most members of the university council.

CIO personnel took faculty and other positions and posed as students at the University of Zimbabwe to intimidate and gather intelligence on students who might protest government actions. Approximately five students were suspended or expelled during the year for political activity (see section 2.b.).

Police and CIO harassed teachers perceived to be opposition supporters. On September 20, two CIO personnel kidnapped Henry Taruva, a high school teacher in Gweru, interrogated and tortured him for teaching opposition views to his students. Unlike previous years, there were no reports of schoolteachers whose contracts of employment were cancelled because they supported the MDC.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The constitution provides for freedom of assembly; however, the government restricted this right in practice through laws such as POSA, which many legal experts believed were unconstitutional. POSA does not require permits for meetings or processions, but it requires that organizers notify the police of their intentions to hold a public gathering seven days in advance. Failure to do so results in criminal prosecution as well as civil liability. Although most groups that conducted meetings did not seek permits, some groups informed the police of their planned events and were denied permission, or their requests went unanswered. Police insisted that their permission was required to hold public gatherings and sometimes approved requests; however, they disrupted many events whether or not permission was sought. Police personnel attended many political meetings without invitation, ostensibly to protect attendees from potential violence by unruly persons. The CIO also routinely sent personnel undercover to monitor meetings perceived as being potentially antigovernment.

Despite a more open campaign environment than in previous elections, police sometimes refused to permit MDC campaign activities, especially in military and police facilities and certain “no-go” rural areas where government officials and ruling party supporters do not allow the opposition to operate.

On January 26, riot police arrested MDC MP Thokozani Khupe and 80 supporters during a campaign rally. Khupe was charged under POSA, released, and appeared

at hearings in August, October, and December, but the trial was postponed each time in a tactic deliberately designed to inconvenience the defendant.

On January 23, police arrested MDC candidate Goodrich Chimbaira for allegedly violating POSA by holding a meeting with constituents in his home. He was detained overnight and released without charge.

On February 16, police prevented the MDC from training 120 parliamentary candidates and arrested Ian Makone, the party's election director. Police released Makone the same day without filing charges.

There was no further action on the 2004 cases in which opposition political figures were harassed or arrested by government authorities.

The police repeatedly used force to break up nonviolent demonstrations by critics of the government and erected roadblocks in urban areas to prevent public gatherings from taking place. Police also arrested numerous demonstrators during the year. For example, in January police in Harare arrested 11 members of WOZA for demonstrating against declining education standards. Police released the women without charges on the same day. In February police arrested more than 50 members of WOZA in Bulawayo during the group's annual Valentine's Day demonstration; the women were all quickly released. On the same day, police in Harare dispersed a group of more than 100 women who planned to march.

On April 27, Police arrested six Zimbabwe Congress of Trade Union (ZCTU) activists in Mutare ahead of the May Day celebration despite POSA's exemption for labor activities (see section 6.a.). Police released all six the same day without charge. On April 28, police arrested six additional ZCTU members in Harare for participating in a government-organized march to commemorate World Day for Safety and Health at Work. ZCTU had been invited by a government agency, the National Social Security Authority (NSSA), to take part in the march. The police released all six without charge the same day.

On July 21, police armed with truncheons and tear gas and accompanied by dogs dispersed a demonstration organized by the National Constitutional Assembly to protest government plans to amend the constitution. Police beat and arrested 33 members, and a woman was mauled severely by the police dogs.

On October 19, the police arrested two University of Zimbabwe students for organizing a demonstration. Police charged them with inciting public violence and released them three days later. University officials suspended them and two others and expelled the four from their school residence for their political activity.

In November the National Constitutional Assembly (NCA) and the ZCTU staged protests; the NCA called for a new constitution, and ZCTU protested the government's economic policies. After the NCA protests in several cities on November 8, which the NCA said were largely uninterrupted by police, police arrested Chairman Lovemore Madhuku, NCA official Bernard Dube, and the mayor of the heavily populated suburb Chitungwiza, Misheck Shoko, for their roles in the protests. On November 9, ZCTU planned to stage protests in several cities, but police disrupted the protest in Harare and prevented activity in other cities by cordoning off areas in some cities and arresting ZCTU officials before the protests in others. Police arrested over 100 ZCTU activists, including President Lovemore Matombo and General Secretary Wellington Chibebe. Police charged all with POSA violations and released them by November 11. At year's end their trials had not taken place.

On December 1, police arrested five AIDS activists at an event in Harare commemorating World AIDS Day, despite police clearance for the event. The attorney general's office agreed there was no basis for the arrests, but police detained the activists until the following day when police released them without charge.

There was no action taken against police who used excessive force to disperse a number of demonstrations and rallies in 2003 or 2004.

Freedom of Association.—Although the constitution provides for freedom of association, the government restricted this right in practice for political organizations. Organizations generally were free of governmental interference as long as the government viewed their activities as nonpolitical. ZANU–PF supporters, sometimes with government support or acquiescence, intimidated and abused persons perceived to be associated with the opposition (see section 1.c.). The government harassed some NGOs it believed opposed government policies with raids on their offices, inquiries into their activities, and obstacles for renewing work permits of foreign employees (see section 4).

The formation of political parties and unions was not restricted; however, the government interfered with activities of political parties and unions during the year (see sections 1.c., 6.a., and 6.b.).

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right in practice. However, a law that criminal-

izes purporting to practice witchcraft reportedly was viewed as restrictive by some practitioners of indigenous religions.

The government and the religious communities historically have had good relations; however, the government continued to criticize and harass religious leaders who spoke out against the government's human rights abuses. Church leaders and members who criticized the government faced arrest, detention, and, in the case of foreigners, possible deportation.

In the course of Operation Restore Order (see section 1.f.), the government tore down or forced congregants to dismantle some places of worship.

On June 14, police destroyed a mosque serving approximately 100 families in Hatcliffe Extension. According to reports, the local Muslim community had an opportunity to remove religious articles and other items prior to the mosque's destruction.

On July 26, in the process of removing Porta Farm residents who returned after the first demolitions in the area, ZRP officers destroyed a church and a mosque on Porta Farm. The police had spared the church and mosque during the initial Porta Farm demolitions.

In March 2004 the government charged the Catholic diocese of Hwange and the Catholic Mater Dei Hospital in Bulawayo for allegedly exchanging foreign currency illegally. The government's intention appeared to have been to use these charges to put pressure on the church to desist from criticizing the Mugabe regime. Subsequently, the government and the church settled the problem out of court.

Religious organizations that operate schools or medical facilities are required to register those specific institutions with the appropriate ministry regulating their activities.

Witchcraft—widely understood to encompass attempts to harm others not only by magic but also by covert means of established efficacy such as poisons—traditionally has been a common explanation for otherwise unexplainable diseases. Although traditional indigenous religions generally included or accommodated belief in the efficacy of witchcraft, they generally approved of harmful witchcraft only for defensive or retaliatory purposes and purported to offer protection against it.

The 2004 Criminal Law (Codification and Reform) Act criminalizes purporting to practice witchcraft. The law defines witchcraft as “the use of charms and any other means or devices adopted in the practice of sorcery,” and provides punishments for intending to cause disease or injury to any person or animal through the use of witchcraft. At year's end there were no new or previously outstanding cases under the witchcraft law. Attacks on individuals in witchcraft-related cases appear to be prosecuted under laws for assault, murder, or other crimes.

There was tension between the government and individual indigenous African churches because of the preference of the latter for prayer over science-based medical practices that have reduced avoidable childhood diseases and deaths in those communities. Some members of indigenous churches and groups believed in healing through prayer only and refused to have their children vaccinated. The ministry of health had limited success in vaccinating children against communicable childhood diseases in these religious communities. Human rights activists also criticized these indigenous churches for sanctioning marriages for underage girls.

Muslims complained of discrimination by private employers who refused to allow them sufficient time to worship at their mosques on Fridays.

Societal Abuses and Discrimination.—There were no reports of societal violence, harassment, or discrimination against members of religious groups, including inter-religious and intrareligious incidents.

According to a prominent member of the Jewish community, there are approximately 300 Jews in the country—200 in Harare and 100 in Bulawayo. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2005 *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 restricted them in practice.

During the year police continued routinely to erect roadblocks staffed with armed police in and around cities and rural districts, especially during election periods and before demonstrations and opposition meetings. Police claimed that they were looking for criminals, smuggled goods and food, or illegal weapons, but legal rights groups asserted that it was a measure designed to discourage or limit opposition organizing. Roadblocks established by the Zimbabwe Revenue Authority along the main highways from South Africa and Botswana to search for foreign currency re-

mained in place. Police also searched for and confiscated smuggled maize at road-blocks on major roads.

The Constitutional Amendment (17) Law, signed by President Mugabe in September, allows the government to restrict foreign travel for reasons of national security and public order. In public statements on multiple occasions, government officials indicated their intention to revoke passports of human rights defenders and key opposition leaders. On December 7, immigration officials confiscated the passport of Trevor Ncube, the owner of the *Independent* and *Standard* newspapers, after he landed in Bulawayo. On December 12, Ncube filed a court case to get his passport back, arguing the confiscation violated his basic rights (see section 2.a.). On December 8, immigration officials confiscated the passport of MDC official Paul Themba Nyathi. On December 14, immigration returned both passports after the attorney general determined that officials could not confiscate passports without specific enabling legislation.

On December 14, immigration officials seized the passport of Raymond Majongwe, secretary general of the Progressive Teacher's Union, upon his return to the country after attending an International Labor Organization (ILO) conference in Nigeria. The independent press reported that 64 civil society and opposition members were on a list of those whose passports were revoked.

During the year travel bans on a variety of persons remained in effect, including British government officials, members of the British parliament, a foreign human rights activist, and journalists. Foreign correspondents were denied visas during the year.

The constitution prohibits forced exile, and there were no reports that the government employed forced exile. A number of persons, including former government officials and prominent businessmen and human rights lawyers left the country and remained in self-imposed exile at year's end.

Internally Displaced Persons (IDPs).—Following Operation Restore Order (see section 1.f.), the number of internally displaced persons increased dramatically. The UN special envoy's report estimated at least 700 thousand persons lost their homes or businesses. The government forcibly relocated some of the displaced; others stayed near their demolished homes with limited or no shelter. The action again displaced some of the approximately 500 thousand former farm workers who sought refuge in cities and towns following government resettlement policies in 2004. The government prevented international organizations from assisting IDPs on some occasions.

There continued to be reports of MDC supporters displaced internally, most of them as part of Operation Restore Order. The government condoned and even encouraged an environment of lawlessness that permitted war veterans and other ruling party supporters to force opposition members and supporters from their homes without consequences for the perpetrators (see section 1.f.). In most cases police did not intervene.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government generally cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The government also provided temporary protection to certain individuals who did not qualify as refugees under the 1951 convention and its 1967 protocol and was providing it to six persons in at year's end, according to UNHCR.

According to UNHCR, there were 13,850 refugees and asylum seekers registered in the country during the year, although refugee experts believed many refugees had migrated to neighboring countries. The largest groups of refugees and asylum seekers continued to be from the Democratic Republic of the Congo, Rwanda, and Burundi.

According to law refugees must live at Tongogara refugee camp, but the camp only had a capacity for two thousand persons and affords no means of earning a livelihood. Most other refugees lived in urban areas without the permission of the government. In some cases, the government permitted refugees with special needs to live in urban centers. The government granted work permits to very few refugees, primarily to those with special skills. During Operation Restore Order, the government relocated refugees that had been living in urban areas and who lost their homes in the operation to the Tongogara refugee camp. The UNHCR reported that the number of refugees and asylum seekers in the camp temporarily increased to

2,500, exceeding the camp's capacity. By the end of the year, most of those originally taken to the camp during Operation Restore Order had relocated to urban areas.

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

The constitution provides citizens with the right to change their government peacefully; however, this right was restricted in practice because the political process continued to be tilted heavily in favor of ZANU–PF, which has ruled continuously since independence in 1980.

Elections and Political Participation.—In January the Zimbabwe Electoral Commission (ZEC) Act went into effect. The law established an electoral commission, largely appointed by the president, and regulates the provision of voter education. However, the electoral supervisory committee (ESC), which remained in operation through the March parliamentary elections, generally was hampered by an insufficient budget and an overburdened staff seconded from the ministry of justice. It also lacked authority to order the correction of irregularities, including of the voters' roll, which contained a large number of redundancies and errors. The government invested immense powers in the presidency through the Electoral Act, including full control of voters' rolls and registration, and the ability to change district lines without notice on the eve of an election. Electoral officers often did not operate in a fully open and transparent manner.

The government manipulated the electoral process the effect of which was to disenfranchise voters and to skew elections in favor of ruling party candidates. The ruling ZANU–PF party distorted the political campaign and manipulated voter registration rolls and vote tallies to ensure its large margin of victory in the March 31 parliamentary elections. ZANU–PF captured 78 out of the 120 contested seats. Western observers declared the elections fundamentally flawed. The delimitation commission gerrymandered three constituencies in historically MDC-controlled areas, diluting them with additional voters from nearby rural traditional ZANU–PF areas. The government undertook a vigorous voter registration drive targeting likely ruling party voters in rural areas, while much of the country remained off limits to the opposition until after registration closed. The Electoral Act, passed by parliament in December 2004 and signed into law in January, requires citizens to be resident in a designated constituency to vote, thus preventing citizens living outside the country from voting. Absentee ballots were only provided for diplomats and armed forces. On March 17, the supreme court upheld this provision of the new law.

The government's partisan disbursement of food and other material assistance to perpetuate public dependence on the ruling party further bolstered support for ZANU–PF and subverted electoral processes. The government held ruling party campaign rallies in conjunction with government food distributions. In some areas a ZANU–PF card was required to obtain food. There were credible reports of known MDC supporters forced to leave food distribution lines or to turn in MDC party cards and T-shirts in exchange for food. In the constituency of Gwanda where ZANU–PF won in March amid allegations of fraud, there were credible reports that MDC supporters were not allowed to purchase grain from the Grain Marketing Board. Partisan food distribution made it more difficult and expensive for those denied to find food.

On October 17, Judge Nicholas Ndou of the electoral court ruled that ZANU–PF had politicized food distribution and used violence in the rural constituency of Insiza, but it did not affect the result. He upheld the victory by ZANU–PF candidate Andrew Langa despite witness accounts of Langa firing at MDC supporters and threatening villagers with withdrawal of food if they voted MDC. On October 18, Judge Rita Makarau made a similar determination regarding the election in the rural constituency of Makoni North, upholding the victory of ZANU–PF's Didymus Mutasa despite politicization of food. Witnesses said MDC supporters were forced to turn in MDC items such as T-shirts in exchange for food distributions.

Pre-election violence was lower in March than in past election campaign periods in 2000 and 2002, but there was violence and intimidation of MDC supporters.

On February 21, ZANU–PF supporters severely beat an MDC activist and his wife for posting campaign rally notices in Hurungwe East. Reportedly acting under orders, police refused to investigate the incident and did not arrest ruling party supporters engaged in acts of violence.

On February 25, ZANU–PF militants attacked MDC activists as they campaigned west of Harare. The militants severely beat the MDC activists and took their campaign materials. The MDC candidate for the area reported the incident to police, but officials took no action.

Approximately 10 percent of would-be voters were turned away from the polls, especially in opposition areas. In all, more than 100 thousand potential voters appear

to have been turned away. Most voters were rejected because they tried to vote in the wrong constituency due to inadequately publicized redistricting, and no longer appeared on the voter rolls. Rejected potential voters were likely to be disproportionately opposition voters because the demographics matched those of MDC supporters. Critics noted the process for registering and ensuring a voter was registered was legal but confusing and some voters may have been excluded from the voters roll intentionally. The office of the registrar general, which maintains the voters roll, is not independent from the government.

Election observers also noted voter intimidation at polling stations. Some polling stations were located in areas regarded as intimidating to voters such as at a police station or next to a local ZANU–PF headquarters. At some stations, police officers and other unidentified individuals recorded the names of those who voted, a procedure intimidating to some voters. Some chiefs also reportedly pressured villagers to vote for the ruling party. There were reports that voters in some districts had been told that the translucent ballot boxes would be used to note how individuals voted.

On election day, March 31, ZANU–PF candidate for Insiza, Andrew Langa, threatened to shoot MDC polling agents at Silalatshani Business Center as they were being deployed in readiness for the election. The MDC polling agents reported the incident to the Gwanda police station, but police took no action to prevent intimidation. Consequently, the polling station opened without MDC polling agents.

Observers at numerous polling stations reported that in many cases police, rather than election officials, communicated vote counts to the tabulation centers, which exceeded the role of the police in maintaining order. Observers also reported that opposition party agents and observers were not allowed to witness the vote tabulation in key districts. Contrary to the Electoral Act, many polling stations did not post their results.

These reports and conflicting election results issued by the ZEC, the first only hours after the poll closed and the second a few days later, suggested that the final toll was manipulated. Discrepancies heavily favored the ruling party; of the 19 constituencies where the final results differed by more than 5 thousand from the initial reports, ZANU–PF candidates won 18. The number of rejected potential voters combined with the discrepancies in the government's announced tallies exceeded the candidate's margin of victory in 24 constituencies, 20 of them won by ZANU–PF.

In September the government used its two-thirds majority in parliament to pass a constitutional amendment that established a 66-member senate. The government was widely criticized for creating the senate, widely seen as a vehicle for patronage and a useless and expensive body. It will sit for a single five-year term and has no independent political authority.

The MDC's president called for a boycott of the elections. However, several other MDC leaders opposed the boycott decision. Twenty-six candidates ran under the MDC banner despite a decision by the party's senior policy organ to boycott the elections.

Of the 50 elected seats, ZANU–PF won 19 unopposed and an additional 24 on election day; MDC candidates won 7. However, the boycott appeared to have been successful, as turnout was historically low, at only 19 percent of eligible voters. In addition President Mugabe appointed 6 seats, and the ruling party-controlled council of chiefs appointed 10, giving ZANU–PF an overwhelming majority of seats.

There were few regional and no international observers. Domestically, the Zimbabwe Election Support Network (ZESN) mounted a small observation effort. However, ZESN observed that at some polling stations there were much larger numbers of voters than at most stations, a possible indication of fraud, and that the circumstances remained heavily tilted toward the ruling party.

On July 29, police raided the home of MDC election expert Topper Whitehead and confiscated three computers and other information that the MDC planned to use in its continuing legal challenge to the 2002 presidential election. On August 8, police returned the items after a judge so ordered, but some of the computer files had been damaged.

During the year the government refused to turn over ballot boxes to the MDC for use in its legal challenge to the 2002 presidential vote. On May 27, a court sentenced the country's registrar general, Tobaiwa Mudede, to a two-month suspended jail term for refusing to surrender the ballot boxes.

In June 2004 the high court dismissed without explanation the first phase of the MDC's legal challenge seeking nullification of the 2002 election results. The second phase, involving factual evidence and witness testimony regarding the election's conduct, had not begun by year's end.

The Constitutional Amendment (17) Act, published in the *Government Gazette* on September 14, abolished the ESC and established the ZEC as the only constitutional body in charge of elections. The MDC and human rights NGOs supported the con-

solidation of these two organizations but said the ZEC was not truly independent and that a separate, ruling party-aligned registrar general remained.

The president may unilaterally declare a state of public emergency for a period of up to 14 days; has sole power to dissolve parliament and to appoint or remove a vice president and any minister or deputy minister; and directly appoints 20 of the 150 MPs, including 12 nonconstituency MPs and 8 provincial governors who sit in parliament and directly appoints 6 senators. The president also exerts great influence on the process by which the country's chiefs (traditional rulers) select 10 of their number to sit as MPs and 10 as senators. All 30 of the appointed MPs have been consistent ZANU-PF supporters.

The legislature, which traditionally has been subordinate to the executive branch, had a viable opposition that called on the government to be accountable and transparent. However, after the March 31 parliamentary elections, ZANU-PF used its two-thirds majority to limit question time and debate.

There were reports that the government removed from the civil service and the military persons who were perceived as opposition supporters. Additionally, there were reports that the government assigned soldiers and graduates of ZANU-PF's national youth service training centers to work in government ministries.

The government routinely interfered with MDC-led local governments. On July 23, Minister of Local Government Ignatius Chombo suspended Mutare Mayor Misheck Kagurabadza and three other senior city officials, officially for mishandling the city's finances. Chombo announced the suspension immediately after Kagurabadza showed the UN special envoy the effects of Operation Restore Order (see section 1.f.), leading the mayor to conclude that his cooperation with the UN envoy was the true reason for the suspension. On December 29, Chombo suspended the remaining MDC councilors for mismanagement. Also on December 29, Chombo suspended Chitungwiza Mayor Misheck Shoko for failing to maintain city services. According to Shoko, the government made service delivery in Chitungwiza difficult, including diverting approximately the then equivalent of \$1.25 million (Z\$5 billion) of the town's money to the ruling party's parliamentary election campaigns.

In April 2004 Chombo fired the elected MDC mayor of Harare, Elias Mudzuri, and subsequently fired 19 MDC councilors. Although legally an election must be held within 90 days of a mayor vacating the office, a commission appointed by Chombo continued to run the city at year's end.

The ruling party's candidates continued to benefit from the ZANU-PF's control of the state-owned firms that dominated the country's economy and from its control of the state-monopolized broadcast media (see section 2.a.).

The Citizenship Act requires all citizens with a claim to dual citizenship to renounce their claim to foreign citizenship under the laws of the foreign country by January 2002 to retain their citizenship and the right to vote. The act also revokes the citizenship of persons who fail to return to the country in any five-year period; however, there were no reported cases of persons losing their citizenship under this provision during the year. Legal rights groups described the legislation and regulations as a government attempt to disenfranchise citizens of perceived opposition leanings; the more than 500 thousand commercial farm workers, many of whom have origins in neighboring countries; and the approximately 30 thousand mostly white dual nationals. Persons with dual citizenship experienced difficulty complying with the regulations because many other countries do not provide procedures for repudiating citizenship. The 2003 Citizenship of Zimbabwe Amendment Act removes the renunciation requirement for persons born in the country with parents from the Southern African Development Community (SADC) countries or who were born in SADC countries with parents from Zimbabwe.

There were 22 women in the 150-seat parliament. There were 20 women in the senate, including the president of the senate. There were seven women in the highest ranks in the executive branch: the vice president, three ministers, a deputy minister, and two governors. Women participated in politics without legal restriction, although according to local women's groups, husbands, particularly in rural areas, commonly directed their wives to vote for the husband's preferred candidates. The ZANU-PF congress allotted women one-third of party positions and reserved 50 positions for women on the party's 180-member central committee, which was one of the party's most powerful organizations.

There were 10 members of minority groups in the cabinet, including Vice President Joseph Msika. There were 36 members of minority groups in the 150-seat parliament, including 30 Ndebele, 2 whites, and 4 Tonga.

Government Corruption and Transparency.—There was widespread corruption in government. Implementation of the government's ongoing redistribution of expropriated, white-owned, commercial farms substantially favored the ruling party elite and continued to lack transparency. Top ruling party officials continued to hand-

pick multiple farms and register them in the names of family members to evade the government's one-farm policy. The government continued to allow individuals aligned with top officials to invade and seize land not designated for acquisition.

Top ruling party officials and businessmen supporting the ruling party received priority in distribution of the country's resources, including priority access to limited foreign exchange and fuel. There were credible reports that the government's campaign to provide housing plots and vending sites for victims of Operation Restore Order (see section 1.f.) mostly benefited civil servants, security forces, and ruling party supporters.

There were new government efforts to combat corruption, but they were ineffective. In January the government enacted an Anti-Corruption Act, which established a government-appointed Anti-Corruption Commission. It included no members from civil society or the private sector. Also in January the government established the Ministry of State Enterprises, Antimonopolies, and Anticorruption to investigate and raise awareness about corruption.

Prosecutions for corruption continued but were selective and generally seen as politically motivated. The government targeted persons who had fallen out of favor with the ruling party, including senior ZANU-PF Central Committee member James Makamba and former finance minister Christopher Kuruneri. Prosecutions were often for externalizing foreign currency, which was a common practice among the political and business elites (see section 1.d.).

The government stated that the AIPPA was intended to improve public access to government information; however, the law contains provisions that restrict freedom of speech and press, and these elements of the law were the ones the government enforced most vigorously (see section 2.a.). One NGO reported that it made several requests information under AIPPA, but at year's end the government had not provided any information. The NGO said it had taken the government to court in several cases but the courts had not ruled in its favor.

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

A number of domestic and international human rights groups operated in the country, investigating and publishing their findings on human rights cases; however, they were subject to government restrictions, interference, and harassment. The government monitored their activities closely and was generally unresponsive to their concerns.

Domestic NGOs worked on human rights and democracy issues, including lobbying for revision of POSA and AIPPA; increasing poor women's access to the courts; constitutional and electoral reform; raising awareness of the abuse of children; conducting voter education; preserving the independence of the judiciary; and eliminating torture, arbitrary detention, and restrictions on freedom of the press and assembly. Major local human rights NGOs included the Zimbabwe Human Rights NGO Forum, Zimbabwe Lawyers for Human Rights, Zimbabwe Peace Project, and Amani Trust.

During the year police arrested or detained NGO members, often in connection with demonstrations or marches (see section 2.b.). On July 12, police arrested a worker from Action Aid for taking photographs of a woman's organization distributing assistance to individuals affected by Operation Restore Order.

The government harassed some NGOs it believed opposed government policies with raids on their offices, investigations into their activities, and obstacles to renewing work permits of foreign employees. For example, in March security officers raided a local NGO dealing with girls victimized by rape or abuse. Officials searched the organization's offices, shelters for rape and abuse victims, and the home of the organization's head. Officials claimed to be looking for subversive materials.

In April the government directed raids on the offices of at least a dozen NGOs, reportedly those that criticized government policies. A team of officials from various ministries led by the Ministry of Public Service but including police and CIO officials conducted the raids. Officials reviewed the NGOs' documents for information on their registration, sources of funding, and activities; however, the government did not prosecute NGOs or their staff as a result of these raids.

At year's end the president had not signed the controversial Nongovernmental Organizations Bill, passed by parliament in December 2004, within the time required, and the NGO community did not expect the government to introduce a new bill. However, on December 10, the ruling party adopted a report that recommended the government take action against NGOs perceived to be aligned with the opposition.

The government continued to obstruct the activities of organizations involved in humanitarian activities. NGOs continued to report difficulties in carrying out their programs in rural areas. For most of the year, the government restricted feeding

programs to specific targets such as school feeding or home-based care programs. During and after Operation Restore Order, the government blocked some efforts by local and international NGOs to provide humanitarian relief to those affected by the operation (see section 1.f.).

In March the Ministry of Social Welfare threatened to close dozens of NGOs for mispending donor funds, claiming that the NGOs had instead used the money to fund the opposition. At year's end no NGOs had been closed.

In October the Ministry of Labor and social welfare announced new operational guidelines for NGOs. The guidelines require each NGO to obtain clearance in each district and each province as a condition of operation wherever it operates.

The government declined to issue a formal request to the World Food Program (WFP) for food assistance, despite estimates that up to half of the country's population would require emergency relief by the end of the year. In October the government permitted WFP to resume vulnerable group feeding, which targets families in need and, in the last week of November, it signed an memorandum of understanding with the organization for further food assistance.

International NGOs had continued difficulties renewing temporary employment permits for their international staff. The government refused readmission to the director of one NGO whose permit renewal was pending when he left the country for a trip and deported him from the airport. Subsequently, he returned and received his permit.

The government cooperated with a UN special envoy who visited to survey the effects of Operation Restore Order but attempted to limit her access to victims and claimed bias when her team's report criticized the government (see section 1.f.). Also in June the chairman of the AU Commission sent Balame Tom Nyanduga, rapporteur on refugees for the African Commission on Human and People's Rights (ACHPR), to survey the effect of Operation Restore Order. The government claimed that the AU did not inform it of Nyanduga's visit until he was traveling to the country. Despite AU efforts to persuade the government to allow Nyanduga to carry out his assessment, the government restricted him to a hotel and insisted on his recall. Nyanduga left without visiting any of the areas affected by the operation, and the AU did not send another envoy. Although confined to his hotel, Nyanduga met with human rights and humanitarian NGOs as well as some victims of Operation Restore Order.

In February the AU released a report by the ACHPR, which reports to the AU, based on a human rights fact-finding mission the ACHPR performed in the country in June 2002. Although originally scheduled for presentation to the AU Executive Council in July 2004, the AU suppressed the report when then foreign minister Stan Mudenge objected that the government had not been given the opportunity to review the report. The report contained allegations of government complicity in or acquiescence to a wide range of rights abuses, including torture and arbitrary arrest of opposition MPs and human rights lawyers. The government criticized the fact-finding mission and rejected its conclusions.

In December the ACHPR passed a resolution condemning human rights abuses in the country, especially in connection with Operation Restore Order.

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

The constitution provides that no person can be deprived of fundamental rights, such as right to life, liberty, and security of person, based on his race, tribe, place of origin, political opinions, color, creed, sex, or disability; however, the constitution allows for discrimination, primarily against women, on the grounds of "customary law." Discrimination against women and persons with disabilities remained problems. The government and ruling party infringed on rights to due process, citizenship, and property ownership in ways that affected the white minority disproportionately.

Women.—Domestic violence against women, especially wife beating, continued to be a serious problem and crossed racial, ethnic, and economic lines. No legislation specifically addresses domestic abuse. However, the government conducted a public awareness campaign in the state media, and prominent officials, including Vice President Joyce Mujuru, made several statements during the year in support of women's rights and against domestic violence. Musasa Project, a local NGO that sought to protect and empower victimized women, reported that treatment of victimized women varied but authorities generally did not consider domestic violence to be a private matter and would arrest an offender for assault if there was evidence of abuse. Systemic problems and lack of education often meant that police did not respond to women's reports or requests for assistance. Musasa Project worked with law enforcement and provided training and literature on domestic violence as well as providing shelters and counseling for women. Women were reluctant to pursue

cases in court, and there were few successful prosecutions during the year. During the year there were newspaper reports of wife killings; however, there was no specific record of prosecutions or convictions for such crimes.

The SOA defines sexual offenses as rape, sodomy, incest, indecent assault, or immoral or indecent act with a child or person with mental disabilities. The act makes nonconsensual sex between married partners a crime. It provides penalties for up to 10 years in prison for sexual crimes. The SOA also makes it a crime to infect anyone knowingly with HIV/AIDS, and the government prosecuted some individuals for the crime.

There were continued reports of rape, incest, and sexual abuse of women. Approximately 1,100 rapes were reported in Harare in 2002. Although the government refused to supply figures subsequently, the rate reportedly increased. In many cases the women knew their rapist. Few cases of rape, especially spousal rape, were reported to authorities, because women were unaware spousal rape was a crime and, particularly in rural areas, feared losing the support of their families. Musasa Project reported that most women initially came to the organization for other counseling, and information about the rape only came to light after several sessions. During the year there were reports of women raped and murdered as part of witchcraft rituals. Human Rights NGO Forum reported four politically motivated rapes (see section 1.c.) although Musasa Project reported that cases of political rape were no longer common. There was no evidence that authorities took action to address rapes at national youth service camps.

Prostitution is illegal, and during the year there were numerous media reports regarding concerted efforts by police to halt prostitution in the Harare city center. Police arrested both prostitutes and their clients, and the government-sponsored *Herald* newspaper published the names of arrestees. Prostitution reportedly increased. A local NGO reported that most prostitutes operated independently of pimps but that a growing number of minors were using pimps for protection. There were some reports that women and children were sexually exploited in towns along the border with South Africa (see section 5, Trafficking).

Labor legislation prohibits sexual harassment in the workplace, and there were no reports of any prosecutions during the year. However, women commonly faced workplace sexual harassment.

There are laws aimed at enhancing women's rights and countering certain traditional practices that discriminate against women; however, women remained disadvantaged in society. Economic dependency and prevailing social norms prevented rural women in particular from combating societal discrimination. Despite legal prohibitions, women still were vulnerable to entrenched customary practices, including the practice of pledging a young woman to marriage with a partner not of her choosing and the custom of forcing a widow to marry her late husband's brother.

On September 18, the Union for the Development of Apostolic Churches in Zimbabwe Africa announced a resolution to ban polygamy in order to combat the spread of HIV.

The law recognizes women's right to own property independently of their husbands or fathers. Many women continued to be unaware of their property rights. The Administration of Estates Amendment Act makes inheritance laws more favorable to widows; however, in 1997, shortly before the amended law was passed, the supreme court ruled that, according to customary law, women's rights to inheritance, ownership of property, and custody of children were inferior to men's. The court case was prominent, and, despite the change in law, many women still believed their rights were restricted by the court decision and often relinquished property without understanding their rights. Divorce and maintenance laws were favorable to women, but women generally lacked awareness of their rights.

Women and children were particularly affected by Operation Restore Order (see section 1.f.). Many widows who earned their income in the informal economy or by renting out cottages on their property lost income when their market stalls or cottages were destroyed. Widows faced particular difficulties when forced to relocate to rural areas. Traditionally, women joined their husband's family when married and were considered an unwanted burden by their childhood families. Likewise, they were sometimes unwelcome in their husband's family in rural areas where resources were already strained.

The Ministry of Youth Development, Gender, and Employment did little to advance the cause of women beyond a public information campaign. The government gave qualified women access to training in the military and national service. Although there have been advances for women within the armed forces, they continued to occupy primarily administrative positions. According to the 2004 Zimbabwe Millennium Development Goals Progress Report, women represented 30 percent of the civil service in 2002. A local NGO reported that in recent years women pro-

gressed in health and education but in general were concentrated in the lower echelons of the workforce, especially in the financial industry.

Several active women's rights groups concentrated on improving women's knowledge of their legal rights, increasing their economic power, combating domestic violence, and protecting women against domestic violence and sexual transmission of HIV/AIDS.

Children.—The government's commitment to children's rights and welfare remained weak. The government has a National Plan of Action for Orphans and Vulnerable Children (NPA for OVC), which was completed in 2004 but has not been fully implemented. It is designed to ensure that orphans and vulnerable children are able to access education, food, health services, and birth registration and are protected from abuse and exploitation, but activities set out in the plan were insufficiently funded. Children, especially those in the rural areas but also an increasing number of urban dwellers, suffered greatly. Although legislation existed to protect children's rights, it was difficult to administer and enforce.

There was no compulsory education, and schooling was not free. School fees increased dramatically during the year, and enrollment declined. According to one company's inflation analysis, school costs for low-income families increased nearly 900 percent from December 2004 through November. Many families could not afford to send all of their children to school. According to the 2002 census data and age-specific population distributions, roughly 72 percent of school-age children attended school. In September President Mugabe claimed that 97 percent of primary school-age children attended school in 2004. The highest level achieved by most students was primary level education.

Operation Restore Order displaced many children, disrupted school attendance, and forced many to drop out of school (see section 1.f.).

In most regions of the country, fewer girls than boys attended secondary schools. According to the 2004 Zimbabwe Millennium Development Goals Progress Report, 42 percent of secondary school-age boys and 40 percent of girls attended school. Of these 82 percent of the boys and 73 percent of the girls completed secondary school. If a family was unable to pay tuition costs, it most often was female children who left school.

Child abuse, including incest, infanticide, child abandonment, and rape continued to be problems during the year. The local NGO GCN reported that, in some rural communities, young girls were pressured to submit to virginity tests, after which they were given a virginity certificate if the test was successful. Girls known as virgins were at risk for rape due to the belief among some that having sex with a virgin would cure men of HIV and AIDS. This belief and its practice contributed to the spread of HIV and AIDS among children.

GCN reported that, in a study of 3 of its 16 administrative areas in 2004, it tracked a daily average of 3 child sexual abuse cases. Using these figures and police records of reported rapes in the high-density suburb of Chitungwiza, near Harare, GCN estimated that an average of 3,500 girls were abused each year nationally. A local NGO reported that a relative or someone who lived with the child was the most likely abuser. The NGO believed that since Operation Restore Order, child sexual abuse cases increased because the number of relatives in the same house increased due to family members losing their homes in the operation.

In April police arrested a handyman, James Sangarwe, for abusing students at Macheke Primary school, a boarding school in the East. During his trial in May, officials discovered evidence of further abuses of at least 53 pupils, and the government closed the school in July, a week before the school term ended. The school reopened when the new school term started in September with an entirely new staff. The government prosecuted some staff members and transferred staff not implicated in the abuse to other schools. In addition to Sangarwe, the government charged temporary teacher Edward Chiripamberi, handyman Only Musengi, and handyman Josaphat Chitema. A judge postponed announcement of his judgment twice in Sangarwe's trial, because the prison at which he was held did not have enough fuel to drive him to court. Chiripamberi's trial opened on December 7, but, at year's end, Musengi's trial had not begun. On December 14, Chitema died of encephalitis while awaiting trial.

Incidents of witchcraft-related child deaths and mutilations continued during the year. Newspapers reported several instances of missing children found murdered with body parts missing, which led police to suspect the murders were related to witchcraft.

The traditional practice of offering a young girl in marriage as compensatory payment in interfamily disputes continued during the year. Arranged marriage of young girls also continued. The legal age for a civil marriage is 16 for girls and 18 for boys. Customary marriage, recognized under the Customary Marriages Act, does not pro-

vide for a minimum marriage age for either boys or girls; however, the SOA prohibits sexual relations with anyone younger than 16 years of age. Child welfare NGOs reported that they occasionally saw evidence of underage marriages, particularly in isolated religious communities or among HIV/AIDS orphans but lacked meaningful statistics on its prevalence. Musasa Project reported an increase in instances where families pledged girls in marriage and even unborn babies in exchange for economic protection. Such girls often “married” well before the age of 12.

Local and regional NGOs reported instances of trafficking of children and child prostitution (see section 5, Trafficking).

The government gave preference to national youth service graduates among those entering and those seeking employment in the civil service, especially in the security forces. In May the government announced its intention to make national service compulsory for all students, starting in primary school, but there were no reports that the government implemented this requirement. The stated purpose of the training camps was to instill national pride in the youths, highlight the history of the struggle for independence, and develop employment skills; however, news reports quoted deserters as saying that the camps subjected trainees to racist and partisan political indoctrination and military training. There were credible reports that graduates were used for political violence.

Unlike in previous years, there were no reports of rape at the government’s national youth service training camps.

Child labor was a problem (see section 6.d.).

There were an estimated 1.3 million HIV/AIDS orphans by year’s end, and the number was increasing. The number of AIDS orphans (including children who lost one as well as both parents) was about 10 percent of the country’s population. Many grandparents were left to care for the young, and, in some cases, children or adolescents headed families and were forced to work to survive. AIDS orphans and foster children were at high risk for child abuse. Some children were forced to turn to prostitution as a means of income. According to local custom, other family members inherit before children, leaving many children destitute. Many such children were unable to obtain birth certificates, which then prevented them from obtaining social services.

During Operation Restore Order (see section 1.f.), the government detained many street children and took them to transit camps or juvenile detention centers. At year’s end NGOs were uncertain how the operation affected the number of children living on the streets, which in previous years had risen dramatically.

The government, with support from civil society, donors, and the private sector, established a national secretariat to implement the NPA for OVC. Both donors and government contributed to OVC activities, but most programs were not adequately funded to reach the large number of OVCs in the country. Among the projects designed to assist OVCs and other needy children were the basic education assistance module (BEAM), which paid school fees, and the Children in Difficult Circumstances program (CDC), which paid other related fees. In May the government announced an expanded budget for BEAM; however, at year’s end the actual budget, number of children benefiting, and amount of the benefit were unknown. There were also reports that favoritism and corruption affected the beneficiary selection process.

NGOs operated training centers and homes for street children and orphans, and government officials sometimes referred children to these centers.

Trafficking in Persons.—No laws specifically address trafficking in persons, and there continued to be anecdotal reports that the country was both a point of origin and a transit path for trafficking. Common law prohibits abduction and forced labor, and it is a crime under the SOA to transport persons across the border for sex. Traffickers also can be prosecuted under other legislation such as immigration and abduction laws. The SOA provides for a maximum fine of \$0.41 (Z\$35 thousand) or imprisonment of up to 7 years for those convicted of prostituting children under 12 years of age. It also provides for a maximum fine of \$0.58 (Z\$50 thousand) and a maximum prison sentence of 10 years for “procuring another person to become a prostitute and have sex whether inside or outside” the country.

The primary government authority to combat trafficking is the ZRP, which relied on NGOs to alert them to any cases.

There was little information on the extent of trafficking beyond anecdotal reports of girls exchanging sex for passage across the South African border, women lured to other countries with false job promises, immigration officials of neighboring countries sexually abusing children during deportation, children working as domestic or agricultural workers, and employers requiring sex from undocumented Zimbabwean workers in South Africa under threat of deportation. There also were anecdotal reports that victims were trafficked to border areas and into Botswana and South Af-

rica. Likewise, there were anecdotal reports that victims were transited through the country to South Africa from Botswana, Ghana, and East Africa.

Anecdotal information suggested that citizens who emigrated to seek a better life were exploited while employed illegally in a neighboring country, when being deported, or after being lured to another country by false employment schemes. The groups at highest risk were HIV/AIDS orphans and displaced persons.

There were reports of child prostitution, trafficking in children, and child labor. NGOs reported an increase in child prostitution since Operation Restore Order. As with adults, reports suggested that those children in desperate economic circumstances, especially those in families headed by children, were most at risk. One local NGO reported that traffickers took girls from rural areas to city brothels in cities under the false pretenses of job or marriage promises. The NGO reported that rural girls were sometimes trafficked to farms as agricultural labor or to urban areas as domestic labor, where they were sometimes sexually abused.

Victims suffering from child or domestic abuse are treated with special procedures in victim friendly courts. A trafficked person had the option to take a case before the victim friendly court; however, there is no statistical tracking of trafficking-related prosecutions and no record of any cases filed during the year. The state-run media prominently featured articles about trafficking in persons, and the government has prevention programs, such as BEAM (see section 5, Children) to provide alternatives for children at risk. However, there are no NGOs with programs specifically designed to work with trafficking victims.

Persons with Disabilities.—The Constitutional Amendment (17) Act (see section 3) added persons with disabilities as a group protected from discrimination. Although the law specifically prohibits discrimination against persons with disabilities in employment, in access to public places, or in provision of services, the lack of resources for training and education severely hampered the ability of persons with disabilities to compete for scarce jobs. The law stipulates that government buildings should be accessible to persons with disabilities, but implementation has been slow. NGOs continued to lobby to include albinos in the definition of “disabled” under the law. Persons with disabilities faced harsh customary discrimination. Traditional belief considered persons with disabilities bewitched, and reports were common that children with disabilities were hidden when visitors arrived.

Operation Restore Order severely affected persons with disabilities, and, according to the UN report on the operation, the government held approximately 50 persons with physical and mental disabilities at a transit camp separated from the rest of the camp population and were not provided care.

The government broadcast a regular, prime-time show on state radio dedicated to promoting awareness of the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—According to government statistics, the Shona ethnic group makes up 82 percent of the population, Ndebele 14 percent, whites less than 1 percent, and other ethnic groups 3 percent. There were low-level tensions between the African majority and the white minority, between the Shona majority and the Ndebele minority, and among the various Shona subgroups.

Racial tensions remained relatively low despite the government’s ongoing attempts to attribute the country’s economic and political problems to the white minority and western countries. On some occasions, President Mugabe, members of his government, and the state-controlled media attempted to reignite resentment of the white minority. Ruling party supporters seldom were arrested or charged for infringing upon minority rights.

The disproportionate number of Shona-speaking teachers and headmasters in Matabeleland schools remained a sensitive issue. During the year and notably in the aftermath of Operation Restore Order, members of the Ndebele community continued to criticize the government’s unequal distribution of national resources and the government’s failure to compensate victims of the 1980s Matabeleland killings of an estimated 10 thousand to 20 thousand Ndebele civilians.

In March ZANU–PF officials reportedly demanded approximately the then equivalent of \$170 thousand (Z\$1 billion) from businesses and families from the minority ethnic-Indian community for the ruling party’s election campaign, and many complied, fearing retribution.

In May over a period of several days, the ZRP raided the homes of approximately 40 ethnic Indian households ostensibly searching for illegally held foreign currency. They seized additional items during these searches, accusing the families of hoarding food and other supplies. These raids took place overnight, without prior warning. At the same time, ethnic Indian business owners alleged that government tax and other officials unfairly targeted their shops for investigation as opposed to shops owned by indigenous citizens or other minorities. Others in the Indian community

viewed the investigations as part of a general government pressure on business rather than specifically targeting ethnic Indians.

Other Societal Abuses and Discrimination.—Over a period of years, President Mugabe has publicly denounced homosexuals, blaming them for “Africa’s ills.” Although there is no statutory law proscribing the activities of homosexuals, common law prevents homosexual men, and to a lesser extent, lesbians, from fully expressing their sexual orientation and, in some cases, criminalizes the display of affection between men.

On August 5, unidentified men approached the Gays and Lesbians Association (GALZ) exhibit at the Zimbabwe International Book Fair and stated that GALZ was not allowed to be there. They then entered the book fair offices where they threatened staff. Subsequently, they returned to the GALZ stand and seized GALZ literature. GALZ members sought assistance from police officers and security guards patrolling the gardens, but they refused to intervene. The GALZ staff recognized that they would receive no assistance and withdrew from the fair. GALZ staff reported that they believed the government had sent the group. No subsequent action was taken against those who threatened the GALZ members.

The authorities took no action following the incident at the August 2004 Book fair when a mob chased members of GALZ from their exhibit.

The government has a national HIV/AIDS policy that prohibits discrimination against persons living with HIV/AIDS, and the law aims to protect against discrimination of workers in the private sector and parastatals. Despite these provisions societal discrimination against persons affected by HIV/AIDS remained a problem. Although there was an active information campaign by international and local NGOs, the Ministry of Health, and the National AIDS Council to destigmatize HIV/AIDS, ostracism and condemnation of those affected by HIV/AIDS continued.

Incitement to Acts of Discrimination.—Throughout the year government-controlled newspapers, radio, and television stations continued to selectively vilify citizens of European ancestry and to blame them for the country’s problems. In 2004 materials used at National Youth Service Camps identified enemies of the state in racist terms and demonized whites. During a cash shortage in 2003, the government-controlled newspapers often accused Asians of hoarding millions of dollars to the detriment of the economy; however, such charges were not repeated during the year.

Section 6. Worker Rights

a. The Right of Association.—While the Labor Relations Amendment Act (LRAA) provides private sector workers with the right to form or join unions without prior authorization, and workers exercised these rights, some pro-ZANU–PF employers declared their shops off-limits to the ZCTU, the national umbrella labor confederation. The Labor Amendment Bill, passed by parliament on December 2 and effective December 30, eliminated some previous public sector employee rights and excluded them from protection under labor laws, placing them instead under the Public Service Act, which does not provide for the right to form and belong to trade unions, collective bargaining, strike, or alternative dispute resolution mechanisms. Employees in positions designated as managerial were excluded from general union membership.

During the year approximately 25 percent of the formal sector work force belonged to the 31 unions that form the ZCTU; approximately 65 percent of industries were unionized.

The Zimbabwe Federation of Trade Unions (ZFTU), a government-created alternative labor body, had few activities throughout the year, the most visible of which was a poorly attended May Day celebration. While the ZFTU continued to support splinter unions in each economic sector, there was no evidence that either employers or employees viewed the splinter unions as legitimate. In addition to fostering confusion among workers, splinter unions forced existing unions to spend scarce resources guarding against declining membership. The splinter unions did not bargain collectively, handle worker complaints, or provide worker education.

During the year the government openly targeted the ZCTU, declaring it aligned with the opposition MDC and arresting ZCTU leaders at various labor rallies. According to the ZCTU and other civil society organizations, the government attempted to change ZCTU leadership using four disgruntled ZCTU associates to intimidate and disrupt ZCTU general council meetings as well as meetings of ZCTU affiliates. However, the majority of ZCTU’s 30-plus associates remained loyal to the leadership.

On April 12, at a general council meeting, members of the Construction Workers and Leather Workers Unions physically attacked ZCTU President Lovemore Matombo and his deputy Lucia Matibenga. The attackers were from two of the gov-

ernment-sponsored affiliates that have been at the forefront of efforts to destabilize the ZCTU. No legal action was taken against the assailants.

On April 23, in Bulawayo, hired assailants forced entry into a ZCTU general council meeting and assaulted ZCTU Secretary General Wellington Chibebe, President Matombo, Vice President Matibenga, and ZCTU International Relations Committee member Tabitha Khumalo. The attackers dragged the four ZCTU leaders out of the conference room and beat them. No legal action was taken against the assailants.

On May 6, the police called in ZCTU Informal Economy Coordinator Elijah Mutemeri for questioning regarding the misuse of union funds. The police had no apparent evidence of wrongdoing, but they questioned Mutemeri for three hours prior to releasing him without charge. Subsequently, unidentified men visited Mutemeri's home in his absence and frequently harassed his family members.

On May 13, 14 armed police officers from the ZRP raided the ZCTU offices using a broadly worded search warrant that did not specify an alleged offense. The police ransacked the offices for three hours, seizing both paper and electronic personnel, financial, and personal files. Subsequently, the ZCTU filed an urgent chamber application seeking the return of the documents, but the court took no action by year's end.

On May 16, three suspended staff assistants at the Commercial Workers Union of Zimbabwe (CWUZ), the ZCTU's largest affiliate, and ZANU-PF supporters broke into the CWUZ headquarters and attempted to change the affiliate's leadership at an impromptu meeting. Noting that many present were not CWUZ members and that neither proper notice requirements nor quorum rules were observed, CWUZ President and ZCTU Vice President Matibenga immediately received a court injunction to prevent the "newly elected leadership" from carrying out union business. However, on July 13, a second judge granted the "newly elected leadership" an injunction against Matibenga, leaving CWUZ paralyzed. CWUZ leadership remained unresolved at year's end. Although the LRAA prohibits antiunion discrimination, in practice union members faced discrimination and harassment.

In January 2004 ZCTU President Matombo was dismissed from his job at the postal service for union activities. ZCTU appealed the dismissal, but Matombo had not been reinstated by year's end, reportedly as the consequence of overloaded labor courts. A labor court handled complaints of such discrimination under the mechanism for resolving cases involving "unfair labor practices." The determining authority may direct that workers fired due to antiunion discrimination should be reinstated, although this did not happen in practice.

The ILO continued to criticize the government for ongoing interference with the unions' freedom of association. The International Congress of Free Trade Unions (ICFTU) also criticized government harassment of unions during the year. On February 2, the government's immigration authorities expelled a delegation from the ICFTU-affiliated Congress of South African Trade Unions (COSATU) upon arrival in the country. COSATU had refused to promise not to meet with certain organizations and individuals.

b. The Right to Organize and Bargain Collectively.—The LRAA provides workers with the right to organize and permits unions to bargain collectively over wages and conditions of employment and workers exercised this right in practice; however, government harassment of union leaders and interference by ZFTU sometimes made such negotiations difficult. Collective bargaining agreements applied to all workers in an industry, not just union members. The Labor Amendment Bill, which took effect on December 30, allows the minister of public service, labor, and social welfare (minister of labor) to appoint members to advisory councils, which resolve industrial disputes between labor and employers, without consulting ZCTU or the Employers Confederation of Zimbabwe. The bill also makes lower court rulings enforceable during an appeal.

In December the Tripartite Negotiating Forum resumed talks but did not resolve any issues. ZCTU called for indexing wages according to the poverty datum line (PDL), which calculates the minimum required for a family of six to pay basic expenses. At year's end, the PDL was approximately \$200 (Z\$16 million) per month. According to local economists, fewer than 20 percent of those employed in the formal sector earned more than the PDL.

The minister of labor retained the power to veto agreements that he believed would harm the economy, but he did not involve himself directly in labor negotiations unless requested to do so by one of the parties. The Labor Amendment Bill gives the minister unlimited time to review lay-offs before they become effective. When no trade union represented a specific sector, representatives of the organized workers, such as the professional associations, met with the employer associations under the mediation of labor officers from the Ministry of Labor. Some employment

councils had yet to reach an agreement or were deadlocked awaiting court-supervised arbitration at year's end. Employees in positions designated as managerial were excluded from the collective bargaining process.

The government continued to use POSA to limit the ZCTU and its affiliates' ability to meet with and consult their constituencies, although the law does not apply to labor unions. For example, unions were prevented from holding meetings with their members, sometimes with heavy police presence and under threat of arrest. Despite court rulings against them, the police continued to monitor ZCTU meetings.

On April 27, police in Mutare forced entry into a ZCTU May Day preparatory meeting at the Hellenic Club, terminated the meeting, and arrested five regional council members and a member of the ZCTU General Council. Police released all six without charge the same day. There was no further action by year's end.

Although the LRAA explicitly recognizes the right to strike, it has been circumscribed with procedural limits including 14-day advance notice requirements, mandated 30-day reconciliation periods, and possible mandatory referral to binding arbitration. The act prohibits "essential services" employees from striking on the grounds that it "endangers immediately the life, personal safety, or health of the whole or any part of the public." The law defines essential services broadly and includes: fire personnel; employees engaged in the supply and distribution of water; employees providing veterinary services; revenue agents at ports; persons in the health care field; transport and communications employees; railway engineers; licensed electricians; and broadcast personnel during a state of emergency. The law also allows that "any nonessential service may be declared an essential service by the minister if a strike in a sector, service industry, or enterprise persists to the point that the lives, personal safety, or health of the whole or part of the population is endangered." Managers also were prohibited from striking, and, in some industries, the government defined most employees as managers. In practice the government harassed and arrested union leaders who called for strikes and union members who attempted to participate in strikes.

Government-imposed delays prevented most employees and their unions from declaring legal strikes, and those who participated in strikes deemed illegal faced harsh sentences of up to five years in prison. On July 30, junior and mid-level doctors at government hospitals across the country began a strike to demand a pay raise and a fuel allowance already given to senior doctors. The Zimbabwe Hospital Doctors' Association cited rising absenteeism due to inability to get to work, poor working conditions, and low pay. Health Minister David Parirenyatwa said the strike was illegal and ordered the doctors back to work or face detention. The Hospital Doctors' Association said CIO officials threatened many doctors. The doctors returned to work on August 5.

Workers protesting health and safety standards or lack of equipment may strike without the notification and arbitration procedure.

The Export Processing Zones Act states the LRAA shall not apply to workers in export processing zones (EPZs); however, according to the ZCTU, employers generally applied the same wages and standards in the EPZs as in the general economy. The ZCTU has negotiated directly with EPZ employers to allow some unions in the EPZ, although their number and level of activity remained low.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.). Forced labor is punishable by an undefined fine, two years' imprisonment, or both. The traditional practice of offering a young girl in marriage as compensatory payment in interfamily disputes continued in rural areas (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—Under the LRAA, child labor is punishable by a maximum fine of \$0.35 (Z\$30 thousand), 2 years' imprisonment, or both; however, child labor was common. Under the LRAA a child between the ages of 13 and 15 can work as an apprentice or if the work is an integral part of (or in conjunction with) "a course of training or technical or vocational education." The law further states that no person under 18 shall perform any work likely to jeopardize that person's health, safety, or morals. The status of children between 15 and 18 years of age is not directly addressed, but 15 years of age is still the minimum for light work, work other than apprenticeship, or work associated with vocational education.

The government has not released the 2004 Labor Report. According to the most recent information, the 2000 National Child Labor Survey, approximately 25 percent of children between the ages of 5 and 17 were involved in some form of labor. The unemployment rate continued to grow, with some estimates as high as 80 percent, which decreased the number of children employed in the formal sector. How-

ever, the incidence of children who worked in the informal sector continued to increase as more children worked to fill the income gap left by ill, unemployed, or deceased relatives. Children often lacked access to necessary safety equipment and training. Children worked in the agricultural sector, as domestics, and as car-watchers. As a result of the land redistribution program, there were fewer instances of child labor on commercial farms. Many children sold simple wares on the streets; others worked in the growing illegal gold panning industry. In addition there were reports of an increasing number of girls engaged in prostitution. Although the government and NGOs increasingly discussed the problem of child labor in the agricultural, domestic, and informal sectors, they were unable to gather concrete data on the number of cases.

The Child Protection Society reported that new farmers used children as cheap labor because they could not complain about working conditions. UNICEF reported children working as independent contractors so employers could evade the appearance of employing children. Zimbabwe Domestic and Allied Workers Union observed employers bringing children from their rural homes to work as domestics with parental consent. Save the Children Norway-Zimbabwe reported that sugar businesses along the Mozambique border at Catiyo used children to sell sugar across the border, often with the complicity of their parents. Children in the sugar business were paid less than adults and did not attend school. Save the Children Norway-Zimbabwe also reported children working on tea estates, which sent children to school in the morning and to work in the afternoon and evening.

Some employers did not pay wages to child domestic workers, believing they were assisting a child from a rural home by providing good housing and board. In addition employers paid the parents for the child's work. Relatives often used AIDS-orphaned children as domestics without pay. There were also reports from NGOs that police rounded up street children and took them to work on farms without pay.

The department of social welfare in the Ministry of Labor is responsible for enforcing child labor laws, but the department lacked the human resources to carry out inspections or any other monitoring. The government implemented few new initiatives to prevent child labor.

In 2004 the Ministry of Labor promoted its BEAM and children in difficult circumstances (CDC) programs, which were designed to pay for school fees and other items such as uniforms and books for children who could not afford to go to school; however, fewer than 18 percent of children benefited from the program in 2004. At year's end the government had not released the percentage of children benefiting from BEAM.

The central statistics office conducted a labor survey in 2004; but had not released the results by year's end.

e. Acceptable Conditions of Work.—There is no national minimum wage except for agricultural and domestic workers. Government regulations for each of the 22 industrial sectors continued to specify minimum wages, hours, holidays, and required safety measures. The minimum wage did not provide a decent standard of living for a worker and family, and approximately 80 percent of the population lived below the government's poverty line. Monitoring systems were ineffective, and many agricultural and domestic workers were remunerated below the minimum wage.

Minimum wages in the formal sector changed continuously as a result of the high inflation rate. Domestic worker minimum wages were specifically separated from others; the latest monthly minimum wages established in March, were: gardener, \$9.34 (Z\$800 thousand); cook/housekeeper, \$9.93 (Z\$850 thousand); child- or disabled-minder, \$10.50 (Z\$900 thousand); and child- or disabled-minder with Red Cross certification, \$11.10 (Z\$950 thousand).

The maximum legal workweek is 54 hours, and the law prescribes a minimum of one 24-hour rest period per week. No worker is allowed to work more than 12 continuous hours; however, there was little or no enforcement, particularly in the agricultural and domestic worker sectors. Workers were unlikely to complain to authorities about violations, due to fear of losing their jobs. The public service commission sets conditions of employment in the public sector. Health and safety standards were determined on an industry-specific basis.

Many of the basic legal protections did not apply to the vast majority of farm, mine, and domestic workers. The NSSA reported an increase during the year in the number of fatal accidents in the construction, electrical, and telecommunications industries; it attributed the increase to unskilled contract personnel performing jobs formerly done by professionals. In December the state media reported 340 workplace fatalities and 26,037 injuries between 2002 and 2004. The NSSA acting general manager said this level continued to be too high and claimed an estimated 4 percent of gross national product was lost due to accidents. As labor relations officers no longer existed in practice, the Ministry of Labor relied heavily on voluntary compli-

ance and reporting by employers and employees to enforce applicable laws and regulations.

The government designated the Zimbabwe Occupational Safety Council, a quasi-governmental advisory body comprised of six representatives each from the government, employers, and trade unions, to regulate safe work conditions; however, budgetary constraints and staffing shortages, as well as its status as an advisory council, made the council ineffective. The NSSA continued to experience difficulty monitoring the thousands of work sites across the country; however, it continued to close shops and factories not in compliance. Workers have a legal right to remove themselves from dangerous work situations without jeopardy to continued employment but in practice risked the loss of their livelihood if they did so.